

Chapter 125

Child Support Enforcement

Revision date: January 2006

Article

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Editor's note: As of Register 119 (October 1991), the regulations in this chapter were relocated by the regulations attorney from 15 AAC 147 to 15 AAC 125. The history note for each section reflects its history under its former numbering.

Publisher's note: As of Register 173 (April 2005), new Article 8 was added and former Articles 8 - 10 were renumbered as present Articles 9 - 11.

Article 1

Calculation of Child Support Awards in Administrative Establishment or Review Proceedings

Section

- 10. Determination of support obligation.
- 11. (Repealed).
- 15. (Repealed).
- 20. Determination of total income from all sources and potential income.
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- 40. Financial and medical information required.
- 50. Determining total income from all sources.
- 60. Voluntary unemployment and underemployment and potential income.
- 65. Determining adjusted annual income.
- 70. Calculation of support award.
- 75. Variances and exceptions.
- 80. Determining manifest injustice.
- 85. Medical support.
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15 AAC 125.010. Determination of support obligation

Alaska Rule of Civil Procedure 90.3, effective August 1, 1987, as amended as of April 15, 2005, by Supreme Court Order 1526, is adopted by reference as the agency's child support guidelines.

History: Eff. 8/23/80, Register 75; am 10/1/85, Register 95; am 9/30/87, Register 103; am 2/24/90, Register 113; am 11/28/96, Register 140; am 10/1/98, Register 147; am 6/15/2001, Register 158; am 4/15/2005, Register 174

Authority: AS 25.27.020

AS 25.27.140

AS 25.27.200

15 AAC 125.011. Medical support

Repealed.

History: Eff. 10/1/85, Register 95; am 2/27/86, Register 97; repealed 10/1/98, Register 147

15 AAC 125.015. Failure to provide financial information

Repealed.

History: Eff. 12/27/90, Register 116; repealed 10/1/98, Register 147

15 AAC 125.020. Determination of total income from all sources and potential income

(a) In every matter in which the agency must establish or review a child support order, the agency will determine the obligor's and, if appropriate, the custodial parent's total income from all sources. In determining total income, the agency will use a parent's Department of Labor and Workforce Development records, tax documents, leave and earnings statements, pay stubs, child support affidavits required by Alaska Rule of Civil Procedure 90.3(e), bank records, sworn testimony, or other confirmation of the parent's income that the agency determines is reliable.

(b) In every matter in which the agency has determined that a parent is voluntarily unemployed or underemployed, as provided in 15 AAC 125.060, the agency will also determine the parent's potential income. The agency will determine potential income by considering, based on available information, the parent's past income, skills, work history, and education, and the job opportunities in the area where the parent physically resides.

History: Eff. 8/23/80, Register 75; am 10/1/85, Register 95; am 2/27/86, Register 97; am 12/27/90, Register 116; am 10/1/98, Register 147; am 6/15/2001, Register 158

Authority: AS 25.27.020

AS 25.27.140

AS 25.27.160

AS 25.27.170

AS 25.27.200

15 AAC 125.030. Total income from all sources

(a) For purposes of 15 AAC 125.020, total income from all sources is the expected actual annual income that the parent will earn or receive when the child support award is to be paid. The expected actual annual income consists of

- (1) salaries and wages, including overtime and tips;
- (2) commissions;
- (3) severance pay paid over an extended period of time;

- (4) royalties;
- (5) bonuses and profit sharing;
- (6) interest and dividends, including permanent fund dividends;
- (7) income derived from self-employment and from business partnerships;
- (8) social security benefits;
- (9) veterans benefits;
- (10) insurance benefits in place of earned income, such as workers' compensation or periodic disability payments;
- (11) workers' compensation;
- (12) unemployment compensation;
- (13) pensions;
- (14) annuities;
- (15) income from trusts;
- (16) capital gains in real and personal property transactions to the extent that they represent a regular source of income;
- (17) spousal support received from a person not a party to the order;
- (18) income from contractual agreements;
- (19) prerequisites or in-kind compensation, such as employer provided housing and transportation benefits, to the extent that they are significant and reduce living expenses;
- (20) income from life insurance or endowment contracts;
- (21) income from interest in an estate, whether received directly or through a trust;
- (22) lottery or gambling winnings received as an annuity;
- (23) prizes and awards;
- (24) net rental income;
- (25) G.I. benefits, excluding education allotments;

(26) National Guard and Reserves drill pay; and

(27) Armed Service Members base pay plus the parent's allowances for quarters, rations, cost of living allowance, and specialty pay.

(b) Except as provided in (e) of this section, the expected actual annual income that a parent will earn or receive does not include

(1) a lump sum withdrawal from a pension or profit sharing plan, to the extent the proceeds have already been treated as a portion of total income for the purpose of calculating a child support award under Alaska Rule of Civil Procedure 90.3;

(2) means-based sources of income such as Alaska Temporary Assistance Program (ATAP), Food Stamps, and Supplemental Security Income; however, Children's Insurance Benefits paid to the parent's dependents is considered income; or

(3) one time gifts and inheritances, but interest from the principal amount is considered income and the agency will, in its discretion, consider the amount of the principal as income in determining whether unusual circumstances exist as provided in 15 AAC 125.075.

(4) tax deferred dividends and interest

(A) earned on pension or retirement accounts, including individual retirement accounts under 26 U.S.C. 408 - 408A (Internal Revenue Code; and

(B) not distributed to the parent; or

(5) child support payments received from another individual.

(c) For the purposes of determining the total income of a parent, income from self-employment, rent, royalties, or an ownership interest in a partnership or closely held corporation includes the gross receipts minus the ordinary and necessary expenses required to produce the income. Ordinary and necessary expenses do not include any accelerated component of depreciation, investment tax credit, or any other business expense determined by the agency to be inappropriate. The agency will include an expense reimbursement and an in-kind payment, such as use of a company car, free housing, or reimbursed meals, as income if the amount is significant and reduces living expenses. The agency will offset expenses against the gross receipts from the business in which the expenses were generated, but the agency may not offset the expenses incurred in one business against income from another source such as wages or rents.

(d) If the parent has experienced a wide variation in total income from year to year, the agency will, in its discretion, average income over more than one year to determine

the parent's expected actual annual income. Except in unusual circumstances, the agency will not average more than the last three years of income.

(e) For purposes of 15 AAC 125.020, when the agency is calculating arrears under 15 AAC 125.105, total income from all sources is the actual annual income that the parent earned or received in each calendar year for which arrears are sought to be established in each category listed under (a) of this section. When the agency calculates arrears under 15 AAC 125.105, total income from all sources

(1) includes one time or lump sum payments, including one time gifts and inheritances that would otherwise be excluded from income under (b)(3) of this section; and

(2) does not include payments that are excluded from income under (b)(1), (b)(2), (b)(4), or (b)(5) of this section.

History: Eff. 8/23/80, Register 75; am 10/1/85, Register 95; am 10/1/98, Register 147; am 6/15/2001, Register 158

Authority: AS 25.27.020

AS 25.27.140

AS 25.27.160

AS 25.27.170

AS 25.27.200

15 AAC 125.040. Financial and medical information required

(a) Upon receipt of a request for financial or medical information, or both, or an order for production of that information, a parent to whom the request is addressed shall provide to the agency accurate financial or medical information or both from which the parent's child support obligation can be calculated. The parent shall provide the financial or medical information or both within 20 days after the agency sends a request for information to the parent. The agency will send a request for information to a parent by first-class mail or by electronic means.

(b) The information that a parent must provide under (a) of this section includes the following, as appropriate:

(1) completed child support guidelines affidavits for the current year and for the year immediately preceding the request or order for financial information, and all supporting documentation necessary to verify the statements in the affidavits;

(2) copies of signed income tax returns, with all applicable schedules, for the two tax years immediately preceding the request or order for financial information, and all supporting documentation necessary to verify the statements in the tax returns;

(3) if the parent is employed, the parent's three most recent pay stubs;

(4) if the parent is self-employed, the business records reflecting the parent's business income and expenses for the past three months;

(5) documentation concerning any periodic benefits, such as workers' compensation, unemployment compensation, social security benefits (including Children's Insurance Benefits received under 42 U.S.C. 402(d)(2) by the parent's dependents), veterans benefits, interest or dividends, insurance benefits, dividends and other monetary benefits paid by corporations organized under 43 U.S.C. 1601 - 1629e (Alaska Native Claims Settlement Act), and any in-kind compensation, that were received by the parent whether or not those benefits are required to be reported on the parent's income tax returns; and

(6) documentation concerning any health care coverage that may be available to the parent for the child or children to be covered by the support order.

(c) When the agency is calculating or intends to calculate arrears under 15 AAC 125.105, the agency may request and each parent shall provide, in addition to the information required by (b) of this section, the following information:

(1) completed child support guidelines affidavits for each year for which arrears are sought to be established and all supporting documentation necessary to verify the statements in the affidavits;

(2) copies of signed income tax returns, with all applicable schedules, for each year for which arrears are sought to be established, and all supporting documentation necessary to verify the statements in the tax returns; and

(3) documentation concerning any periodic benefits, such as workers' compensation, unemployment compensation, social security benefits (including Children's Insurance Benefits received by the parent's dependents), veterans benefits, interest or dividends, insurance benefits, dividends and other monetary benefits paid by corporations organized under 43 U.S.C. 1601 - 1629e (Alaska Native Claims Settlement Act), and any in-kind compensation, that were received by the parent during each year for which arrears are sought to be established, whether or not those benefits were required to be reported on the parent's income tax returns.

History: Eff. 8/23/80, Register 75; am 10/1/85, Register 95; am 2/27/86, Register 97; am 10/1/98, Register 147

Authority: AS 25.27.020(a)

AS 25.27.060

AS 25.27.140

AS 25.27.160

AS 25.27.170

AS 25.27.200

15 AAC 125.050. Determining total income from all sources

(a) Except when the agency determines that a parent is voluntarily unemployed or underemployed under 15 AAC 125.060, the agency will use the best information available, including any information available to it through automated sources such as information maintained by the Department of Labor and Workforce Development, to determine the parent's total income from all sources for the periods for which support is to be paid.

(b) When the agency calculates arrears under 15 AAC 125.105, and except when the agency determines that a parent is voluntarily unemployed or underemployed under 15 AAC 125.060, the agency will base the support calculation on the parent's actual total income for the period for which support is being calculated. If the agency has

(1) complete information concerning the parent's total income for a year for which support is being calculated, the agency will use that information to calculate support for that year, even if the parent worked less than full time or worked sporadically during the year;

(2) limited information concerning the parent's actual total income for a year for which support is being calculated, the agency will estimate the parent's total income for that year based on the parent's earnings in prior or subsequent years, job skills, training, work history, and education, and the employment available in the area where the parent physically resides or previously resided; or

(3) no information concerning the parent's total income in a past year, the agency will base the support calculation on the

(A) Male and Female Average Annual Wage Income by Age Group statistics provided by the Department of Labor and Workforce Development if the parent is 19 years of age or older and resides in this state;

(B) federal minimum wage as set out in 29 U.S.C. 206(a)(1) if the parent is 19 years of age or older and resides outside of this state; or

(C) minimum \$50-per-month support amount set out in Alaska Rule of Civil Procedure 90.3(c)(3) if the parent is less than 19 years of age.

(c) When the agency calculates a parent's ongoing support obligation under 15 AAC 125.100, and except when the agency determines that a parent is voluntarily unemployed or underemployed under 15 AAC 125.060, the agency will base the support calculation on the total annual income that the parent is likely to earn or receive when the child support is to be paid. To determine the parent's expected annual income, the agency will use the best available information, including

(1) the parent's current income as of the date of the agency's calculation of support, as reflected in recent pay stubs or other information from the parent or the parent's employer;

(2) the parent's actual income during the immediately preceding calendar year or, if the parent's income is erratic or information is not available for the immediately preceding calendar year, the parent's actual income during prior calendar years;

(3) partial wage information for periods of less than one year;

(4) the parent's wage rate at a previous job;

(5) the parent's job skills, training, work history, and education;

(6) the average wage or salary available to a person in the parent's particular profession or occupation and, if applicable, location;

(7) the availability of employment in the area where the parent physically resides;

(8) the minimum wage for the area in which the parent physically resides; and

(9) any physical or other restrictions on the parent's ability to work.

(d) If the agency has none of the information listed in (c) of this section for a parent, the agency will base the parent's ongoing support calculation on

(1) the Male and Female Average Annual Wage Income by Age Group statistics provided by the Department of Labor and Workforce Development if the parent is 19 years of age or older and resides in this state;

(2) the federal minimum wage as set out in 29 U.S.C. 206(a)(1) if the parent is 19 years of age or older and resides outside of this state;

(3) the minimum \$50-per-month support amount set out in Alaska Rule of Civil Procedure 90.3(c)(3) if the parent is less than 19 years of age.

(e) When calculating income under this section, the agency will include in the parent's estimated total income a

(1) permanent fund dividend payable under AS 43.23, unless the evidence available to the agency indicates that the parent is not eligible for a permanent fund dividend; and

(2) dividend payable by a corporation organized under 43 U.S.C. 1601 - 1629h (Alaska Native Claims Settlement Act), if evidence available to the agency indicates that the parent is a member of or shareholder in that corporation.

History: Eff. 8/23/80, Register 75; am 10/1/98, Register 147; am 6/15/2001, Register 158; am 4/1/2005, Register 173; am 4/15/2005, Register 174

Authority: AS 25.27.020

AS 25.27.140

AS 25.27.160

AS 25.27.170

AS 25.27.200

Editor's note: As of Register 151 (October 1999), the regulations attorney made technical revisions under AS 44.62.125(b)(6) to reflect the name change of the Department of Labor to the Department of Labor and Workforce Development made by ch. 58, SLA 1999 and the corresponding title change of the commissioner of labor.

15 AAC 125.060. Voluntary unemployment and underemployment and potential income

(a) If, after considering the relevant circumstances, including the parent's education, training, occupation, health, employment opportunities, and the extent to which the parent is participating in a reasonably diligent work search, the agency determines that the parent is voluntarily underemployed or unemployed, the agency will determine the parent's potential income under 15 AAC 125.020(b) based on the parent's work history, qualifications, and job opportunities. The agency will, in its discretion, also impute potential income for non-income or low income producing assets.

(b) The agency may not determine that a parent is voluntarily underemployed or unemployed if the parent is mentally or physically incapacitated or if the obligor parent is caring for a child under two years of age to whom the parents owe a joint legal responsibility.

(c) For purposes of (a) of this section, if a parent makes a career change, the agency will consider the extent to which the children will ultimately benefit from the change.

History: Eff. 10/1/85, Register 95; am 2/27/86, Register 97; am 10/1/98, Register 147; am 6/15/2001, Register 158

Authority: AS 25.27.020

AS 25.27.140

AS 25.27.160

AS 25.27.170

AS 25.27.200

15 AAC 125.065. Determining adjusted annual income

(a) If a child support award is based on a parent's total income from all sources, the adjusted annual income equals the parent's total income from all sources determined

under 15 AAC 125.030 minus the deductions specified in Alaska Rule of Civil Procedure 90.3(a)(1).

(b) If the child support award is based on a parent's potential income, the adjusted annual income equals the parent's potential income determined under 15 AAC 125.060 minus the deductions specified in Alaska Rule of Civil Procedure 90.3(a)(1), based on the parent's potential income.

History: Eff. 10/1/98, Register 147

Authority: AS 25.27.020(a)
AS 25.27.140(a)
AS 25.27.160
AS 25.27.170
AS 25.27.200

15 AAC 125.070. Calculation of support award

(a) If one parent has primary custody of the child or children, as defined by Alaska Rule of Civil Procedure 90.3(f)(2), the agency will calculate the child support award by multiplying the adjusted annual income determined under 15 AAC 125.065 by the appropriate percentage under Alaska Rule of Civil Procedure 90.3(a).

(b) If the parents have shared custody of the child or children, as defined by Alaska Rule of Civil Procedure 90.3(f)(1), the agency will calculate the child support award by applying the formula set out in Alaska Rule of Civil Procedure 90.3(b) to the adjusted annual income of each parent, as determined under 15 AAC 125.065.

(c) If the parents have divided custody of the children, as defined by Alaska Rule of Civil Procedure 90.3(f)(3), or hybrid custody, as defined by Alaska Rule of Civil Procedure 90.3(f)(4), the agency will calculate the child support award by applying the formula set out in Alaska Rule of Civil Procedure 90.3(b) based on the adjusted annual income of each parent and the amount of time all of the children will spend with each parent. The agency will then consider whether that support amount should be varied under 15 AAC 125.075 because of the divided or hybrid custody arrangement.

(d) In determining whether there is primary, shared, divided, or hybrid custody, the agency will follow the current custody order, if a custody order is in effect. If a custody order is not in effect, the agency will base the support calculation on the actual custody arrangement. The agency may require the parents to provide proof of the actual custody arrangement. As proof the parents may include school records, sworn statements from neighbors or other persons with knowledge of the child's residence, and any other reliable evidence of the child's residence. If a parent is receiving assistance through AS 47.27 (Alaska Temporary Assistance Program (ATAP)) on behalf of a child, the agency will presume that the parent has primary custody of the child unless the parent disputing the

presumption of primary custody provides proof to establish, by a preponderance of the evidence, that a different custody arrangement exists.

History: Eff. 10/1/98, Register 147; am 6/15/2001, Register 158; am 4/15/2005, Register 174; am 8/4/2005, Register 175

Authority: AS 25.27.020

AS 25.27.140

AS 25.27.160

AS 25.27.170

AS 25.27.200

15 AAC 125.075. Variances and exceptions

(a) At the request of a parent, the agency will, in its discretion, for good cause, vary a child support award calculated under 15 AAC 125.070 if the parent provides to the agency clear and convincing evidence that

(1) repealed 4/15/2005;

(2) manifest injustice will result unless the child support award under 15 AAC 125.070 is varied because of unusual circumstances; for purposes of this paragraph, unusual circumstances may include:

(A) especially large family size;

(B) significant income of a child;

(C) divided custody under which one parent has primary custody of one or more children of the relationship and the other parent has primary custody of one or more other children of the relationship;

(D) health or other extraordinary expenses;

(E) unusually low expenses;

(F) the existence of subsequent children of the obligor parent, but only if failure to vary the child support award under 15 AAC 125.070 would cause substantial hardship to the subsequent children;

(G) a consideration of the incomes of both parents; or

(H) in a modification action, the fact that the obligor parent has taken a second job in order to better provide for a subsequent family; or

(3) the parent has an adjusted annual income that is more than \$100,000, as calculated under 15 AAC 125.065; if a parent qualifies for a variance under this paragraph, the agency will base the support award on an adjusted annual income of \$100,000; the agency will make an additional award under this paragraph if the agency determines that an additional award is just and proper, taking into account the needs of the children, the standard of living of the children, and the extent to which that standard should be reflective of the parent's ability to pay.

(4) repealed 8/4/2005.

(b) The following reasons do not, alone, provide good cause for varying a child support award under (a) of this section, but the agency will, in its discretion, consider them if there is evidence of other unusual circumstances in a particular case:

(1) agreement of the parents;

(2) prior and subsequent debts of the obligor parent;

(3) income of a new spouse of either the custodial or obligor parent; or

(4) the age of the children.

(c) The agency may not consider the following reasons in determining whether there is good cause to vary a child support award under (a) of this section:

(1) denial of visitation; or

(2) relocation of the custodial or obligor parent.

(d) The agency will set a support award at no less than the minimum support amount of \$50 per month set out in Alaska Rule of Civil Procedure 90.3(c)(3), except to the extent that

(1) the parent is entitled to an extended visitation credit under a valid order granting the parent visitation in excess of 27 consecutive days and providing for a credit for a period in which the extended visitation is actually exercised; or

(2) a lesser amount is required under a shared, divided, or hybrid custody calculation under Alaska Rule of Civil Procedure 90.3(b).

History: Eff. 10/1/98, Register 147; am 6/15/2001, Register 158; am 11/30/2002, Register 164; am 4/15/2005, Register 174; am 8/4/2005, Register 175

Authority: AS 25.27.020

AS 25.27.140

AS 25.27.160

AS 25.27.170

AS 25.27.200

Editor's note: The repealed regulation at 15 AAC 125.075(a)(4) was originally adopted as an emergency regulation that took effect on 4/15/2005.

15 AAC 125.080. Determining manifest injustice

For purposes of 15 AAC 125.075, a support award determined under the provisions of Alaska Rule of Civil Procedure 90.3(a) or (b) is manifestly unjust if the agency determines that a reasonable person would be convinced that the award is either unjustly large or unjustly small after carefully evaluating the award amount with reference to the considerations set out in the Commentary to Alaska Rule of Civil Procedure 90.3 and 15 AAC 125.075(a)(2) and (b).

History: Eff. 10/1/98, Register 147

Authority: AS 25.27.020(a)

AS 25.27.140

AS 25.27.160

AS 25.27.170

AS 25.27.200

15 AAC 125.085. Medical support

(a) If the agency establishes or modifies a support order administratively, the agency will require health care coverage for the children covered by the support order if health care coverage is available to either parent at a reasonable cost, as defined in 45 C.F.R. 303.31. The agency will include in the support order a provision allowing a credit or debit for one-half of the cost of the health care coverage depending on which parent purchases the coverage, unless the agency finds good cause to order a credit or debit in a different amount.

(b) When the agency is enforcing a child support order issued by a tribunal other than the agency, the agency will seek a modification

(1) through the appropriate legal process to add a provision requiring health care coverage for the children covered by the support order if the order does not already include a health care coverage provision, and allowing a credit or debit for one-half of the cost of the health care coverage depending on which parent purchasers the coverage, unless good cause exists to request a credit or debit in a different amount; or

(2) of the order's existing health care coverage provision if the provision does not comply with state or federal law.

(c) Repealed 11/30/2002.

History: Eff. 10/1/98, Register 147; am 11/30/2002, Register 164

Authority: AS 25.27.020

AS 25.27.045

AS 25.27.060

AS 25.27.140

AS 25.27.190

15 AAC 125.090. Written findings

(a) In any matter in which the agency has established or modified a child support order, the agency will make specific written findings concerning a decision on each of the following issues:

(1) a parent's total income from all sources;

(2) the existence of voluntary unemployment or underemployment;

(3) a parent's potential income;

(4) a support award;

(5) the existence or absence of good cause to vary a child support obligation under the provisions of 15 AAC 125.075; and

(6) the availability of health insurance and a parent's obligation to provide that insurance.

(b) Written findings concerning the presence or absence of good cause to vary a child support award under 15 AAC 125.075 must include a statement of the reasons for the variation and the amount of support that would have been required but for the variation.

History: Eff. 10/1/98, Register 147

Authority: AS 25.27.020

AS 25.27.160

AS 25.27.170

AS 25.27.180

AS 25.27.190

Article 2

Administrative Establishment of Child Support Orders

Section

- 100. Notice and finding of financial responsibility; establishment of support obligation.
- 105. Establishment of pre-order arrears.
- 110. (Repealed).
- 112. (Repealed).
- 113. (Repealed).
- 115. (Repealed).
- 118. Administrative review of notice and finding of financial responsibility.
- 120. (Repealed).
- 121. Vacating administrative support order based on a default income figure.
- 125. Request for relief from agency administrative orders after the appeal deadline.
- 130. (Repealed).
- 140. (Repealed).
- 145. (Repealed).
- 150. (Repealed).
- 155. (Repealed).
- 160. (Relocated).
- 163. (Repealed).
- 165. (Repealed).
- 170. (Repealed).
- 180. (Repealed).
- 190. (Relocated).
- 191. (Repealed).
- 195. (Repealed).
- 200. (Repealed).
- 205. (Repealed).

15 AAC 125.100. Notice and finding of financial responsibility; establishment of support obligation

(a) Before initiating an administrative action to establish a support order, the agency will send by first-class mail or by electronic means to the noncustodial parent and to the custodial parent or, if appropriate, to a child support enforcement agency of another state, a request for financial and medical information as provided in 15 AAC 125.040.

(b) Upon receipt of the information required by 15 AAC 125.040 or upon the expiration of the period in which the parents are required to provide the information, the agency may initiate an action to establish a support order by serving a notice and finding of financial responsibility on the noncustodial parent as required by AS 25.27.160. The

agency will also send a copy of the notice and finding of financial responsibility to the custodial parent or legal custodian of the children for whom support is sought and, if appropriate, to a child support enforcement agency of another state.

(c) The agency's notice and finding of financial responsibility establishes an ongoing support obligation owed by the noncustodial parent. The ongoing support obligation is effective as of the first day of the month following service on the noncustodial parent of the notice and finding of financial responsibility, a notice of paternity and financial responsibility, or a paternity complaint, whichever is the earliest.

History: Eff. 10/1/98, Register 147

Authority: AS 25.27.020
AS 25.27.160
AS 25.27.170

15 AAC 125.105. Establishment of pre-order arrears

(a) When the agency establishes an ongoing support obligation, or at any time after an ongoing support obligation has been established by a tribunal of this or another state, the agency may issue a notice and finding of financial responsibility that sets the support obligation for periods before the effective date of the ongoing support obligation. Except as provided in (f) of this section, in issuing a notice and finding of financial responsibility under this section, the agency will act as follows:

(1) if initiated by the state because public assistance or medical assistance is being provided on behalf of the child for whom support is sought or because the child is in state placement or state-sponsored foster care, the agency will establish arrears beginning as of the first month in which state assistance was provided on behalf of the child or the first month of state placement, but not to exceed six years before the service on the obligor of the notice and finding of financial responsibility, a notice of paternity and financial responsibility, or a paternity complaint, whichever is the earliest; the agency will establish arrears up to the effective date of the ongoing support obligation for the child, including any arrears owed to the custodial parent if the state assistance or state placement terminates for any period of time before the service of the notice and finding of financial responsibility under this section;

(2) if initiated by the custodial parent, the agency will establish arrears beginning as of the date the custodial parent most recently applied for the agency's services; the agency will establish arrears up to the effective date of the ongoing support obligation for the child, including any arrears owed to the state because the child received public assistance or medical assistance or was placed in state custody or state-sponsored foster care after the most recent application by the custodial parent for services; however, any arrears owed to the state may not exceed six years before the service on the obligor of the

notice and finding of financial responsibility, a notice of paternity and financial responsibility, or a paternity complaint, whichever is the earliest;

(3) if the custodial parent withdraws from the agency's services before the service on the obligor of the notice and finding of financial responsibility under this section, the agency will

(A) complete the establishment of the arrears under (1) or (2) of this subsection if the child for whom support is sought has received public assistance or was in state-sponsored foster care or state placement for any period of time to be covered by the order; however, in the order the agency will not establish arrears that exceed the total public assistance grant amount; or

(B) terminate its action to establish arrears under (1) or (2) of this subsection if the child for whom support is sought has not received public assistance or been in state-sponsored foster care or state placement for any period of time to be covered by the order;

(4) when the agency is acting as the responding state in a case initiated by another state under the Uniform Interstate Family Support Act of this or another state, the agency will, at the request of the initiating state, establish arrears under this section for periods before the effective date of the ongoing support obligation, beginning as of the date the custodial parent applied for child support enforcement services in the initiating state or as of the date the custodial parent began receiving state assistance or state-sponsored placement for the child in the initiating state, whichever date is earlier; however, any arrears owed to the initiating state may not exceed six years before the service on the obligor of the notice and finding of financial responsibility, a notice of paternity and financial responsibility, or a paternity complaint, whichever is the earliest.

(b) When calculating arrears under (a) of this section, the agency will give credit for direct payments made by or on behalf of the obligor directly to the custodial parent in the form of cash, a money order, a check made payable to the custodial parent, or a deposit or electronic funds transfer to a bank or equivalent financial account held by the custodial parent. In order for the obligor to receive credit for direct payments, evidence must show a likelihood, in the determination of the agency, that the direct payment was actually made to the custodial parent for the period for which arrears are being calculated and that the direct payment was intended by both parents to be a direct payment of child support.

(c) When calculating arrears under (a) of this section, the agency will give credit for in-kind contributions if the parents agree in writing to allow credit for the in-kind contribution and the parents agree in writing to the dollar value of the in-kind contribution. The agency will not give credit for an in-kind contribution under this subsection for any period of time during which the child received public assistance or was in state-sponsored foster care or state placement.

(d) When giving credit for direct payments under (b) of this section or in-kind contributions under (c) of this section, the agency will give credit only up to the amount of the support that is charged for the period for which support is established under (a) of this section. If the direct payments or in-kind contributions exceed the amount of the support established under (a) of this section, the excess payments or contributions will be treated as voluntary payments for which the agency will not give credit unless a parent provides clear and convincing evidence that both parents intended the payment or contribution to be applied toward future child support. The agency will not give credit for the excess payments or contributions as future child support for any period of time during which the child received public assistance or was in state-sponsored foster care or state placement.

(e) When establishing arrears under (a) of this section, the agency will calculate the support obligation under 15 AAC 125.070 for the first year of the period for which support is being established. For each year afterwards, the agency will determine whether a material change of circumstances occurred justifying a modification of the support amount for that year. For each year in which a material change of circumstances occurred, the agency will set the support obligation at the amount required under 15 AAC 125.070. For each year in which a material change of circumstances did not occur, the agency will set the support obligation at the amount set for the preceding year.

(f) Notwithstanding (a) of this section, if the agency vacates an administrative support order under 15 AAC 125.121, the agency will establish a new administrative support order for the entire period of time covered by the previous administrative support order.

History: Eff. 10/1/98, Register 147; am 6/15/2001, Register 158; am 4/1/2005, Register 173

Authority: AS 25.27.020

AS 25.27.022

AS 25.27.160

AS 25.27.170

AS 25.27.195

15 AAC 125.110. Agency services

Repealed

History: Eff. 8/23/80, Register 75; am 6/4/83, Register 86; am 11/28/96, Register 140; repealed 10/1/98, Register 147

15 AAC 125.112. Failure to respond to notice in paternity establishment cases under AS 25.27.165

Repealed.

History: Eff. 11/28/96, Register 140; repealed 10/1/98, Register 147

15 AAC 125.113. Certain procedures for paternity establishment cases under AS 25.27.165

Repealed.

History: Eff. 11/28/96, Register 140; repealed 10/1/98, Register 147

15 AAC 125.115. Review of support orders

Repealed.

History: Eff. 12/27/90, Register 116; repealed 10/1/98, Register 147

15 AAC 125.118. Administrative review of notice and finding of financial responsibility

(a) A person served with a notice and finding of financial responsibility or with a copy of a notice and finding of financial responsibility setting a support obligation may request an administrative review of the notice and finding. The person making the request shall make it in writing, and shall send the request to the agency by certified mail, return receipt requested. The request must be postmarked or received by the agency within 30 days after service of the notice and finding of financial responsibility. The request must state the specific reasons for the request for administrative review and be accompanied by the documentation upon which the person requesting the administrative review intends to rely. When a request for administrative review does not fully comply with the requirements of this subsection, the agency will, in its discretion, accept a request for administrative review that substantially complies with the requirements of this subsection.

(b) Upon receipt of a written request for administrative review, the agency will promptly notify the nonrequesting party of the request and provide the nonrequesting party a copy of the request. The nonrequesting party may respond to the reasons asserted by the requesting party, and shall respond in writing within 15 days after notice of the request for administrative review is mailed to the nonrequesting party.

(c) An agency employee, referred to as the review officer, shall conduct the administrative review by correspondence. During an administrative review, the review officer may relax the requirements of the Alaska Rules of Evidence. The review officer

may accept any relevant evidence that appears to be reasonably accurate. Upon request, the review officer will make available to either party to an administrative review the relevant, non-privileged portion of the agency's file relating to the support obligation for which review has been sought. The review officer may

(1) request additional information from either party, to the extent the review officer considers the information necessary to the review; and

(2) conduct additional investigation using the agency's administrative subpoena power or other investigative action, to the extent the review officer considers the information to be obtained from the additional investigation to be necessary to the review.

(d) In an administrative review under this section, the burden of proof is on the person requesting the administrative review to establish:

(1) that a valid court order already exists that covers the support obligation in question;

(2) that a duty of support is not owed; or

(3) that the amount of support determined by the agency in its notice and finding of financial responsibility is incorrect because the financial circumstances of the obligor or of the custodial parent are not as the agency has determined.

(e) After considering the facts, information, and arguments presented by the parties, the review officer shall promptly render a written decision. The review officer's decision must make the specific written findings required by 15 AAC 125.090. If the review officer believes that an adjustment of the agency's action is appropriate, in the written decision the review officer will direct the agency to make the adjustment, and the agency will make the adjustment that is directed to be made in the written decision.

(f) The decision of the review officer made under (e) of this section is final for purposes of appeal to a formal hearing but is not a final administrative determination for purposes of appeal to the superior court. The provisions of 15 AAC 05.010 and 15 AAC 05.025 - 15 AAC 05.040 regarding formal hearings apply to appeals under this subsection.

(g) If, under (f) of this section, a person requests a formal hearing from an administrative review decision, enforcement of the administrative review decision may not be stayed unless the obligor posts security or a bond in an amount sufficient to secure payment of support owed as of the date of the administrative review decision, conditioned upon final determination of the formal hearing. The collection and disbursement of the ongoing support obligation that is stated in the administrative review decision will continue regardless of posting of a bond or security under this section.

(h) In this section,

(1) "nonrequesting party" means the person who, under (b) of this section, may respond to a request for administrative review of the agency's notice and finding of financial responsibility;

(2) "requesting party" means the person who, having been served with a notice and finding of financial responsibility, requests an administrative review of the person's support obligation as set out in the notice and finding of financial responsibility.

History: Eff. 10/1/98, Register 147

Authority: AS 25.27.020
AS 25.27.160
AS 25.27.170

15 AAC 125.120. Waiver of child support

Repealed.

History: Eff. 10/1/85, Register 95; am 2/27/86, Register 97; repealed 10/1/98, Register 147

15 AAC 125.121. Vacating administrative support order based on a default income figure

(a) Upon request from an obligor, the agency will vacate an administrative support order if the support order was based on a default income figure and the agency determines that the default income figure is not an accurate reflection of the obligor's income for purposes of calculating the obligor's child support obligation.

(b) An obligor may request relief under this section by sending a written request to the agency. The request must be accompanied by the financial information required under 15 AAC 125.040(b) for each year for which relief is sought.

(c) If the obligor does not provide sufficient information as required in (b) of this section, the agency will notify the obligor that the information provided is insufficient and will state the additional information that the agency needs in order to review the obligor's request for relief under this section. If the obligor fails to provide the additional information, the agency will

(1) cease further action on the obligor's request for relief; or

(2) review and take action upon the obligor's request for relief if the agency can obtain sufficient actual income information for the obligor from other sources, including the Department of Labor and Workforce Development.

(d) Upon accepting a request for relief under this section, the agency will promptly send a notice of the request for relief by first class mail to the obligor, to the custodial parent or legal custodian and, if appropriate, to a child support enforcement agency of another state. Any party may respond to the notice. The response must be in writing and must be postmarked or received by the agency within 30 days after the notice of request for relief is mailed to the party.

(e) The agency will issue an administrative review decision either granting or denying the request for relief as soon as practicable after the time for response under (d) of this section. The agency will grant the request to vacate the support order if the agency finds that the support order was based on a default income figure and that granting the request will not cause undue hardship to a party because of the party's reasonable reliance on the support order. If the agency grants the request, the agency will at the same time issue a new support order for the time periods covered by the previous support order.

(f) The administrative review decision granting or denying the request for relief under this section and, if appropriate, establishing a new administrative support order is final for purposes of appeal to a formal hearing but is not a final administrative determination for purposes of appeal to the superior court. The provisions of 15 AAC 05.010 and 15 AAC 05.025 - 15 AAC 05.040 regarding formal hearings apply to appeals under this subsection.

(g) If the agency grants a request for relief under this section, the agency will apply 15 AAC 125.010 - 15 AAC 125.090 to calculate the amount of the new support order. The agency will charge interest at the applicable rate under AS 25.27.025 on the support amounts established in the new support order effective as of the dates those amounts would have accrued if the new support order had been issued when the original default order was issued.

(h) If the agency grants a request for relief under this section, and if the support order was based on

(1) a default income figure for some periods of time and on actual income information or an estimated, projected, or potential income for other periods of time, the agency will grant or deny relief for the entire period of time covered by the support order;

(2) a default income figure but was subsequently modified based on actual income information or on an estimated, projected, or potential income, the agency will grant relief only from the original support order that was based on a default income figure, and will keep the modified support order in place; or

(3) actual income information or on an estimated, projected, or potential income and was subsequently modified based on a default income figure, the agency will grant relief only from the modified support order that was based on a default income figure, and will keep the original support order in place for the periods before the effective date of the modified support order.

(i) If the agency grants a request for relief under this section and issues a new support order, the agency will adjust the obligor's account, including any child support arrears and, if appropriate, the ongoing support obligation, to reflect the support amounts established in the new support order. However, the agency will not adjust the obligor's account below zero as of the effective date of the order granting relief or refund any amounts collected before the effective date of the order granting relief. An order granting relief under this section is effective as of the date the request for relief was received by the agency or the date the agency receives all documentation necessary to complete the review, whichever is later.

(j) For purposes of this section, a support order is

(1) based on a default income figure if the agency imputed an annual adjusted income to the parent based on

(A) former 7 AAC 45.020 (Alaska Needs Standard);

(B) the Male and Female Average Annual Wage Income by Age Group statistics or other group wage statistics provided by the Department of Labor and Workforce Development;

(C) the federal minimum wage if the support amount was imputed under 15 AAC 125.050(b)(3)(B) or 15 AAC 125.050(d)(2); or

(D) a minimum \$50 per month if the support amount was imputed under 15 AAC 125.050(b)(3)(C) or 15 AAC 125.050(d)(3);

(2) not based on a default income figure if the agency based the support order on

(A) actual income information for the obligor;

(B) an estimated or projected income based on incomplete but actual income information for the obligor for the current or a prior year; or

(C) an imputed potential income based on a finding of voluntary unemployment or underemployment under 15 AAC 125.060;

(3) not based on a default income figure if the agency established arrears under 15 AAC 125.105 and for a particular year, the agency based the support amount on the obligor's actual income from a prior or subsequent year or estimated the obligor's annual

adjusted income based on incomplete but actual income information for the obligor for the year for which support is being established;

(4) not based on a default income figure solely because the obligor failed to respond to the notice and finding of financial responsibility; if the obligor failed to respond to the notice and finding of financial responsibility but the support order was based on information described in (2) or (3) of this subsection, the order is not based on a default income figure for purposes of this section.

History: Eff. 6/15/2001, Register 158; am 4/1/2005, Register 173

Authority: AS 25.27.020
AS 25.27.195

15 AAC 125.125. Request for relief from agency administrative orders after the appeal deadline

(a) A party to an administrative order, or the agency on its own initiative, may file with the director a written request for relief from the order after the deadline set out in 15 AAC 125.118 for filing an appeal. The request must state one or more of the specific grounds for relief listed in (b) of this section and explain why relief is justified.

(b) The director will grant relief under this section from an administrative order if the party demonstrates, to the director's satisfaction,

(1) mistake, inadvertence, or excusable neglect;

(2) newly discovered evidence that by due diligence could not have been discovered before issuance of the order;

(3) fraud, misrepresentation, or other misconduct of an adverse party;

(4) that the order is void; or

(5) that the order, if the order is an administrative support order, has been satisfied, released, or discharged, or that a prior paternity judgment upon which that support order was based has been reversed or otherwise vacated, so that prospective application of the support order is no longer equitable.

(c) Upon receipt by the agency of a request for relief under this section, or upon the agency's own initiative, the agency will send, by first class mail, copies of the request for relief to the parties and, if appropriate, a child support enforcement agency of another state. Any party may respond to the request. The response must be in writing and must be postmarked or received by the agency within 20 days after a copy of the request for relief is mailed to the party.

(d) Within 30 days after receipt of a request for relief under (a) of this section, the director, or the director's designee, will consider the administrative order and any arguments raised with respect to the request for relief. As necessary to determine any ground for relief under (b) of this section, the director may request the submission of additional information or argument or order the administrative review process reopened to receive further evidence.

(e) If the director determines that relief from an administrative order is to be granted under (b) of this section, the agency will issue an amended administrative order with any corrections that the director determines to be appropriate to provide relief. If the director grants relief under this section, the agency will adjust the obligor's account to reflect the correction of the administrative order. The amended administrative order is final for purposes of appeal to a formal hearing but is not a final administrative determination for purposes of appeal to the superior court. The provisions of 15 AAC 05.010 and 15 AAC 05.025 - 15 AAC 05.040 regarding formal hearings apply to appeals under this subsection.

(f) If the director denies a request for relief under this section, the director's decision becomes final for purposes of appeal to formal hearing as of the date of the director's written order denying the request.

(g) In this section, "administrative order" means an order of the agency.

History: Eff. 6/15/2001, Register 158

Authority: AS 25.27.020
AS 25.27.166
AS 25.27.195

15 AAC 125.130. Bad check fee

Repealed.

History: Eff. 8/23/80, Register 75; repealed 10/1/98, Register 147

15 AAC 125.140. Overdue payment penalty

Repealed 10/1/85.

Publisher's note: At the time of its repeal, this regulation was numbered 15 AAC 147.140.

15 AAC 125.145. Interest on child support arrearages

Repealed.

History: Eff. 6/4/83, Register 86; am 10/1/85, Register 95; am 2/27/86, Register 97; am 12/27/90, Register 116; repealed 10/1/98, Register 147

15 AAC 125.150. Service of administrative process

Repealed 10/1/85.

Publisher's note: At the time of its repeal, this regulation was numbered 15 AAC 147.150.

15 AAC 125.155. Reporting of arrearages to credit bureaus and lenders

Repealed.

History: Eff. 10/1/85, Register 95; am 2/27/86, Register 97; repealed 10/1/98, Register 147

15 AAC 125.160. Definitions

Relocated.

Editor's note: As of Register 81 (April 1982), 15 AAC 147.160 has been relocated to 15 AAC 147.900.

Publisher's note: As of Register 119 (October 1991), 15 AAC 147.900, referred to in the editor's note, above, has been relocated to 15 AAC 125.900. This regulation, 15 AAC 125.160, was, prior to Register 119, numbered 15 AAC 147.160.

15 AAC 125.163. Administrative appeal from notice of liability

Repealed.

History: Eff. 12/27/90, Register 116; repealed 10/1/98, Register 147

15 AAC 125.165. Orders to withhold and deliver

Repealed.

History: Eff. 12/27/90, Register 116; repealed 10/1/98, Register 147

15 AAC 125.170. Income withholding; employer's transmittal of money to agency

Repealed.

History: Eff. 10/1/85, Register 95; am 11/28/96, Register 140; repealed 10/1/98, Register 147

15 AAC 125.180. Spousal support

Repealed.

History: Eff. 10/1/85, Register 95; am 2/27/86, Register 97; am 11/28/96, Register 140; repealed 10/1/98, Register 147

15 AAC 125.190. Medical support

Relocated.

Publisher's note: Prior to 1/91, the regulation now numbered 15 AAC 125.011 was located at 15 AAC 147.190. That regulation was relocated to 15 AAC 147.011 as of 1/91.

15 AAC 125.191. Interstate establishment of support order

Repealed.

History: Eff. 12/27/90, Register 116; repealed 11/28/96, Register 140

15 AAC 125.195. Interstate income withholding and support orders

Repealed.

History: Eff. 10/1/85, Register 95; am 2/27/86, Register 97; repealed 11/28/96, Register 140

15 AAC 125.200. Notice to employer of income withholding

Repealed.

History: Eff. 10/1/85, Register 95; am 11/28/96, Register 140; repealed 10/1/98, Register 147

15 AAC 125.205. Procedures for disestablishment of paternity under AS 25.27.166

Repealed.

History: Eff. 11/28/96, Register 140; repealed 10/1/98, Register 147

Article 3

Paternity

Section

- 210. (Repealed).
- 212. Failure to respond to notice in paternity establishment cases.
- 216. Application for determination of paternity.
- 217. Notice of paternity and financial responsibility.
- 218. Reasons for agency to vacate genetic testing order in paternity establishment proceeding.
- 220. (Repealed).
- 222. Genetic testing in conjunction with the determination of paternity.
- 226. Procedures applicable to determinations of paternity.
- 230. (Repealed).
- 232. Disestablishment of paternity.
- 236. Procedures to initiate disestablishment of paternity.
- 240. (Repealed).
- 242. Agency action on paternity disestablishment petition.
- 244. Reasons for agency to vacate genetic testing order in a paternity disestablishment proceeding.
- 246. Genetic testing in conjunction with the disestablishment of paternity.
- 250. (Repealed).
- 252. Provisions applicable to disestablishment of paternity.
- 259. Paternity by estoppel.
- 260. (Repealed).
- 261. Genetic testing costs in paternity proceedings.
- 270. (Repealed).

15 AAC 125.210. Obligor to file

Repealed.

History: Eff. 3/31/82, Register 81; repealed 10/1/98, Register 147

15 AAC 125.212. Failure to respond to notice in paternity establishment cases

(a) Except as provided in (b) and (c) of this section, if the agency serves a putative father with a notice of paternity and financial responsibility under AS 25.27.165(b) and the putative father fails to file the response required by AS 25.27.165(c), the agency will consider the failure to be an admission of paternity and will issue a decision establishing the putative father's paternity.

(b) If the agency determines that a putative father who fails to file the response required by AS 25.27.165(c) is an unemancipated minor or incompetent person, the agency will terminate the administrative establishment of paternity proceeding without making a determination of paternity and will, in its discretion, bring the paternity proceeding in court. In this subsection, "incompetent person" means a person who is mentally or physically incapable of effectively responding to and participating in an administrative matter such as a paternity establishment matter.

(c) If more than one putative father is named in an application submitted under 15 AAC 125.216, the agency will not issue a decision establishing a putative father's paternity on the basis of failure to file a response under (a) of this section unless the agency has issued a decision of nonpaternity under 15 AAC 125.218(e) or 15 AAC 125.222 with regard to all other putative fathers named in the application.

History: Eff. 10/1/98, Register 147; am 6/15/2001, Register 158

Authority: AS 25.27.020
AS 25.27.140
AS 25.27.165

15 AAC 125.216. Application for determination of paternity

(a) When presented with a written application for the determination of paternity of a minor child born out of wedlock under AS 25.27.165 from a child's mother, custodian, putative father, legal custodian, or agency representative, or the representative of a child support enforcement agency of another state, the agency shall initiate an administrative proceeding to determine paternity under AS 25.27.165. The application for the determination of paternity must contain the following information, to the extent the information is available to the person applying for the determination:

(1) a copy of the birth certificate for each child for whom paternity is sought to be established;

(2) the name of the alleged father and any other information or vital statistics that may aid the agency in identifying the alleged father;

(3) the location of the alleged father and any other information that may lead to the location of the alleged father;

(4) the name of any person who had the legal status of the father of the child for whom paternity is sought to be established as a result of the person's marriage to the child's mother or the legitimation of the child under AS 25.20.050 and copies of any orders excluding that person as the child's biological father;

(5) copies of any orders previously issued concerning the support or custody of the child for whom paternity is sought to be established.

(b) The agency will deny an application for administrative paternity determination if

(1) the paternity of the child has already been established in this state under AS 25.20.050;

(2) the agency has notice of a determination of paternity concerning the child made by another state that is entitled to full faith and credit under AS 25.20.050(h);

(3) the child was not born out of wedlock; or

(4) the child is no longer a minor or is otherwise emancipated.

(c) Repealed 6/15/2001.

(d) Repealed 6/15/2001.

(e) Repealed 6/15/2001.

(f) Repealed 6/15/2001.

(g) Repealed 6/15/2001.

(h) Repealed 6/15/2001.

(i) Repealed 6/15/2001.

(j) In this section, a child is born out of wedlock if the mother of the child is not married to the child's biological father at conception, during the pregnancy, or at birth. The agency will consider a child to be born out of wedlock even if the child's mother marries after the child is born.

History: Eff. 10/1/98, Register 147; am 6/15/2001, Register 158

Authority: AS 25.27.020
AS 25.27.140
AS 25.27.165

15 AAC 125.217. Notice of paternity and financial responsibility

(a) After receiving a written application for paternity determination under 15 AAC 125.216(a), unless the application is denied under 15 AAC 125.216(b), the agency will serve the child's mother, the child's legal guardian if not the mother, and the child's

putative father, as appropriate, with a notice of paternity and financial responsibility. The agency will serve the notice in the manner and in the form required by AS 25.27.165(b).

(b) A person served with a notice of paternity and financial responsibility under (a) of this section shall file a response with the agency within 30 days after the date of service. The response must either admit or deny paternity and provide the required financial and medical insurance information in the form required by 15 AAC 125.040(b) and (c).

(c) If the putative father timely files a written admission of paternity, the agency will issue a decision establishing paternity unless

(1) the putative father was the individual who filed the application for paternity determination; or

(2) the agency, a child support enforcement agency of another state, or a party requests genetic testing and supports the request with an affidavit meeting the requirements of AS 25.20.050(e).

(d) If a party files a written denial of paternity, the putative father, the child, and the mother of the child shall submit to genetic testing within 45 days after the date of service of the notice of paternity and financial responsibility under (a) of this section unless a party's request under (e) of this section is pending before the agency.

(e) A person served with a notice of paternity and financial responsibility under (a) of this section may request under 15 AAC 125.218 that the agency vacate its genetic testing order for the reasons stated in 15 AAC 125.218(c). The request must be filed with the agency within 30 days after the date the party was served under (a) of this section.

(f) If the person served with a notice of paternity and financial responsibility under (a) of this section fails to file a response within 30 days after the date of service, or fails to comply with an agency order for genetic testing, the agency will enter a default finding of paternity under 15 AAC 125.212.

History: Eff. 6/15/2001, Register 158

Authority: AS 25.27.020
AS 25.27.140
AS 25.27.165

15 AAC 125.218. Reasons for agency to vacate genetic testing order in paternity establishment proceeding

(a) A party's request under 15 AAC 125.217(e) for the agency to vacate the genetic testing order must be in writing and state in detail why one or more of the reasons in (c) of this section apply to support the request.

(b) If a party submits a request under (a) of this section, the agency will send the parties, by first class mail, a notice of administrative review. In its notice, the agency will inform the parties about the deadlines to submit evidence or argument under this subsection. If a party wishes to submit evidence or argument for the agency to consider, the party shall submit the evidence or argument to the agency within 30 days after the date the agency mailed the notice to the party. The agency shall provide copies of evidence or argument submitted by a party to all other parties. A party may respond to another party's evidence or argument within 10 days after the date the agency mails the evidence or argument to the party. After the deadline for the parties' responses has passed, the agency will review the evidence and issue a decision under (d) or (e) of this section.

(c) The agency will vacate the genetic testing order if the agency finds that

(1) at least one of the following circumstances exists:

(A) one or more of the conditions of AS 25.27.040(b) are met;

(B) the cooperation of the child's custodian in the establishment of paternity is reasonably likely to result in physical or emotional harm to the child or to the child's custodian;

(C) the child's custodian is being assisted by a public agency, or by a child placement agency, licensed under AS 47.35 or under similar law of the state where the agency is located, to resolve the issue of whether to keep the child or relinquish the child for adoption;

(D) evidence indicates the possibility of paternity by estoppel; or

(2) there is not reasonable cause to require testing because clear and convincing evidence establishes that the putative father could not be the child's biological father.

(d) If the agency vacates the genetic testing order under (c)(1) of this section, the agency will issue an administrative review decision terminating the proceeding without making a determination of paternity and support. If the agency vacates the genetic testing order under (c)(1)(D) of this section, the agency may pursue further paternity proceedings through the appropriate judicial forum or through another state's administrative process.

(e) If the agency vacates the genetic testing order under (c)(2) of this section, the agency will issue an administrative review decision finding nonpaternity.

(f) If a party requests the agency to vacate the genetic testing order for one or more reasons under (c) of this section, and the agency denies the request, the mother, child, and putative father shall submit to genetic testing within 30 days after the date of notice of the agency's decision.

(g) An appeal to formal hearing is not available from an agency decision under this section. A decision under this section may be appealed to the superior court.

History: Eff. 6/15/2001, Register 158; am 11/30/2002, Register 164

Authority: AS 25.27.020

AS 25.27.040

AS 25.27.140

AS 25.27.165

15 AAC 125.220. Agency to verify

Repealed.

History: Eff. 3/31/82, Register 81; repealed 10/1/98, Register 147

15 AAC 125.222. Genetic testing in conjunction with the determination of paternity

(a) Upon receipt of the results of the genetic test required by AS 25.27.165, the agency will serve by first class mail a copy of the results on the putative father, the mother, and the child's legal custodian if the child's legal custodian is not the child's mother or putative father. With the test results, the agency will send the parties a notice of the date for an administrative review and the deadline for submission of evidence or argument under this subsection. The parties may submit evidence or argument concerning the determination of paternity within 10 days after the date the agency mailed the notice to the parties.

(b) If the test results received under (a) of this section establish a presumption of parentage under the standard set in AS 25.20.050(d), and unless the agency orders additional genetic testing under (d) of this section, the agency will issue an administrative review decision that finds that the putative father is the child's father. The agency will issue the administrative review decision within 20 days after the agency's receipt of the test results.

(c) If the test results received under (a) of this section do not establish a presumption of parentage under the standard set in AS 25.20.050(d), the agency will issue an administrative review decision that finds nonpaternity. The agency will issue the

administrative review decision within 20 days after the agency's receipt of the test results, unless the agency orders additional genetic testing under (d) of this section.

(d) A party may request, in writing, a second genetic test within 10 days after the genetic test results are mailed to the parties under (a) of this section. If the agency receives a timely request and advance payment of all costs of a second genetic test from a party, the agency will order a second genetic test. The agency will provide to the parties copies of the results obtained under this subsection and a notice of the deadline for submission of additional evidence or argument under this subsection. The parties may submit additional evidence or argument concerning the determination of paternity within 10 days after the test results are mailed to the parties. If a second genetic test is requested under this subsection, the agency will issue an administrative review decision under (b) or (c) of this section within 20 days after the agency's receipt of the second genetic test results.

History: Eff. 10/1/98, Register 147; am 6/15/2001, Register 158

Authority: AS 25.27.020
AS 25.27.140
AS 25.27.165

15 AAC 125.226. Procedures applicable to determinations of paternity

(a) The party who disputes paternity in a proceeding under 15 AAC 125.216 - 15 AAC 125.222 must specify in writing the basis for disputing paternity.

(b) On its own motion or that of a party, the agency will, in its discretion, issue a temporary order for the support of the child whose paternity is being determined under 15 AAC 125.216 - 15 AAC 125.222. The agency will, in its discretion, issue the temporary support order if the agency finds, by clear and convincing evidence, that the putative father is the child's biological father on the basis of genetic test results and other evidence submitted in support of the motion for temporary support order. The temporary support order is effective until a tribunal issues a final paternity determination and a final support order or until the agency dismisses the proceeding to determine paternity under this section.

(c) A party who submits evidence or written argument in a proceeding described in 15 AAC 125.216 - 15 AAC 125.222 may include evidence of medical records, affidavits, or other evidence tending to negate the genetic test results. Genetic test results submitted as evidence must be accompanied by an authenticating affidavit signed by the person who performed the test or by an authorized representative of the entity that performed the test, verifying that the test was conducted under scientifically accepted standards and that procedures necessary to make the test valid were followed. The agency will not rely on genetic test results that are not properly authenticated as described in this subsection to establish paternity.

(d) The agency will, in its discretion, require additional evidence from a party in order to determine whether the presumption of paternity resulting from genetic test results meeting the standard set in AS 25.20.050(d) has been rebutted by clear and convincing evidence.

(e) If additional evidence or written argument is not submitted under (d) of this section by the date of the administrative review, the agency will issue its administrative review decision based on the evidence available at the time of the review, including genetic test results meeting the standard set in AS 25.20.050(d).

(f) If the agency issues an administrative review decision under 15 AAC 125.222 establishing paternity, the agency will establish the amount of the support obligation under 15 AAC 125.010 - 15 AAC 125.090.

(g) The provisions of 15 AAC 125.118 apply to proceedings under 15 AAC 125.216 - 15 AAC 125.222 and this section, to the extent that those provisions are not inconsistent with a provision of AS 25.27.165, 15 AAC 125.216 - 15 AAC 125.222, or this section. The provisions of 15 AAC 05.010 and 15 AAC 05.025 - 15 AAC 05.040 regarding formal hearings apply to appeals of administrative review decisions issued under 15 AAC 125.222.

(h) The provisions of AS 25.20.050(d) apply to all genetic testing ordered by the agency under 15 AAC 125.216 - 15 AAC 125.222 and this section.

(i) The agency will include the social security numbers of the father, mother, and child in the records relating to all determinations establishing paternity.

History: Eff. 10/1/98, Register 147; am 6/15/2001, Register 158; am 11/30/2002, Register 164

Authority: AS 25.27.020
AS 25.27.140
AS 25.27.165

15 AAC 125.230. Agency to notify obligee

Repealed.

History: Eff. 3/31/82, Register 81; repealed 10/1/98, Register 147

15 AAC 125.232. Disestablishment of paternity

(a) The agency will undertake the disestablishment of paternity under AS 25.27.166 only if

(1) paternity has not already been established in the manner described in AS 25.27.166(a)(1)-(2) or by the order of another state that is entitled to full faith and credit under AS 25.20.050(h);

(2) each party other than the petitioner resides in this state; however, if the agency established paternity under AS 25.27.165, a party need not reside in this state; and

(3) the child whose paternity the petitioner seeks to disestablish was born in this state.

(b) The parties to a paternity disestablishment proceeding are:

(1) the petitioner, who is the person whose paternity is at issue in the proceeding;

(2) the custodian of the subject child;

(3) the mother of the subject child, if different from the custodian;

(4) the child or children whose paternity the petitioner seeks to disestablish; and

(5) any person who has the legal status of the child's father as a result of the person's marriage to the child's mother or the legitimation of the child under AS 25.20.050, if that person is not the person whose paternity is at issue in the proceeding.

History: Eff. 10/1/98, Register 147; am 6/15/2001, Register 158

Authority: AS 25.27.020
AS 25.27.166

15 AAC 125.236. Procedures to initiate disestablishment of paternity

(a) To disestablish paternity under AS 25.27.166, the petitioner shall submit to the agency a petition to disestablish paternity on forms provided by the agency. The petition to disestablish paternity must be accompanied by an affidavit that meets the requirements of (c) of this section and the information required by (e) of this section. The petitioner shall supply the last known addresses and social security numbers of the other parties to the paternity disestablishment proceeding, to the extent that information is available to the petitioner.

(b) The agency will serve the petition to disestablish paternity, and all other documents received under (a) of this section, upon the parties.

(c) The petitioner's affidavit in support of a petition to disestablish paternity must contain the following information, to the extent available to the petitioner:

(1) the full name, birth date, and social security number of each child whose paternity the petitioner seeks to disestablish;

(2) a statement explaining how paternity was established for each child;

(3) as to each child, a description of any previous request or attempt to deny or disestablish paternity of the child in this or another jurisdiction or venue, together with relevant case numbers and copies of any relevant court documents that are in the possession of the petitioner;

(4) the date when and circumstances under which the petitioner first became aware that the petitioner might not be the biological father of the child;

(5) a description of the extent of the petitioner's relationship with the child;

(6) as to each child, a specific denial of paternity; and

(7) a description of any facts establishing a reasonable possibility that the petitioner and the child's mother did not have sexual contact that could have resulted in the conception of the child.

(d) The agency will reject a petition if

(1) the affidavit and any accompanying documents do not provide sufficient information on which to proceed under this section;

(2) a party other than the petitioner does not reside in this state, unless the agency established the paternity of the subject child under AS 25.27.165; or

(3) a court action or an administrative action in another state involving the parties addressed the paternity or support of the child for whom the petitioner seeks to disestablish paternity.

(e) If the petitioner has ever been a party to any court action involving any of the other parties, the petitioner shall submit with the petition to disestablish paternity copies of all court orders relating to the court action, including orders relating to divorce, dissolution, child support, or paternity.

History: Eff. 10/1/98, Register 147; am 6/15/2001, Register 158

Authority: AS 25.27.020
AS 25.27.166

15 AAC 125.240. Response by obligee

Repealed.

History: Eff. 3/31/82, Register 81; repealed 10/1/98, Register 147

15 AAC 125.242. Agency action on paternity disestablishment petition

(a) Upon receipt of a complete petition to disestablish paternity, the affidavit required by 15 AAC 125.236(a), and supporting documents required under 15 AAC 125.236(e), unless the agency rejects the petition under 15 AAC 125.236(d), the agency will issue an order requiring the petitioner, the mother of each child whose paternity the petitioner seeks to disestablish, and each child to submit to genetic testing.

(b) In an order under (a) of this section, the agency will state the time set for the genetic testing, give notice to the parties of the right to administrative review within 20 days after the date that the parties are served with the genetic test results, and give notice that a party may request that the agency vacate its genetic testing order under 15 AAC 125.244(c).

(c) A party shall comply with an order served under (a) of this section to that party unless, within 30 days after the date of service of the order, the party files a written request for the agency to vacate the order under 15 AAC 125.244.

History: Eff. 10/1/98, Register 147; am 6/15/2001, Register 158

Authority: AS 25.27.020
AS 25.27.166

15 AAC 125.244. Reasons for agency to vacate genetic testing order in a paternity disestablishment proceeding

(a) A party's request under 15 AAC 125.242(c) for the agency to vacate the genetic testing order must be in writing and state in detail why one or more reasons in (c) of this section apply to support the request.

(b) If a party submits a request under (a) of this section, the agency will send the parties, by first class mail, a notice of the request. In its notice, the agency will inform the parties about the deadlines to submit evidence or argument under this subsection. If a party wishes to submit evidence or argument for the agency to consider, the party shall submit the evidence or argument to the agency within 30 days after the date the agency mailed the notice to the party. The agency shall provide copies of evidence or argument

submitted by a party to all other parties. A party may respond to another party's evidence or argument within 10 days after the date the agency mails the evidence or argument to the party. After the deadline for the parties' responses has passed, the agency will review the evidence and issue a decision under (d) or (e) of this section.

(c) The agency will vacate the genetic testing order if the agency finds that

(1) to conduct genetic testing would not be in the best interests of the child, because evidence indicates the possibility of paternity by estoppel; or

(2) there is no reasonable cause to require genetic testing because clear and convincing evidence establishes that the petitioner is the biological father of the child.

(d) If the agency vacates the genetic testing order under (c)(1) of this section, the agency will issue an administrative review decision terminating the proceeding to disestablish paternity without making a determination concerning paternity. The agency may pursue further paternity proceedings through the appropriate judicial forum or through another state's administrative process.

(e) If the agency vacates the genetic testing order under (c)(2) of this section, the agency will issue a decision finding paternity.

(f) If a party requests that the agency vacate the genetic testing order for one or more reasons under (c) of this section, and the agency denies the request, the mother, child, and putative father shall submit to genetic testing within 30 days after the date of notice of the agency's decision.

(g) An appeal to formal hearing is not available from an agency decision under this section. A decision under this section may be appealed to the superior court.

History: Eff. 6/15/2001, Register 158

Authority: AS 25.27.020
AS 25.27.166

15 AAC 125.246. Genetic testing in conjunction with the disestablishment of paternity

(a) Upon receipt of the results of the genetic test required by 15 AAC 125.242(a), the agency will serve the parties, by first class mail, with a copy of the results. With the test results the agency will send the parties a notice of the date for an administrative review and the deadline for submission of evidence and argument under this subsection. The parties may submit evidence or argument concerning the disestablishment of paternity within 10 days after the date the agency mailed the notice to the parties.

(b) If the test results received under (a) of this section do not establish a presumption of parentage under the standard set in AS 25.20.050(d), and unless the agency orders additional genetic testing under 15 AAC 125.252(a), the agency will issue an administrative review decision disestablishing the petitioner's paternity. The agency will issue the administrative review decision within 20 days after the agency's receipt of the test results.

(c) If the test results received under (a) of this section establish a presumption of parentage under the standard set out in AS 25.20.050(d), and unless the agency orders additional genetic testing under 15 AAC 125.252(a), the agency will issue an administrative review decision finding paternity. The agency will issue the administrative review decision within 20 days after the date the agency received the test results.

History: Eff. 10/1/98, Register 147; am 6/15/2001, Register 158

Authority: AS 25.27.020
AS 25.27.166

15 AAC 125.250. Obligee objection to release

Repealed.

History: Eff. 3/31/82, Register 81; repealed 10/1/98, Register 147

15 AAC 125.252. Provisions applicable to disestablishment of paternity

(a) A party may request, in writing, a second genetic test within 10 days after the genetic test results are mailed to the parties under 15 AAC 125.246(a). If the agency receives a timely request and advance payment of all costs of a second genetic test by the requesting party, the agency will order a second genetic test. The agency will provide copies of the second genetic test results to the parties and a notice of the deadline for submission of additional evidence or argument under this subsection. The parties may submit additional evidence or argument concerning the disestablishment of paternity within 10 days after the test results are mailed to the parties. The agency will issue an administrative review decision under 15 AAC 125.246(b) and (c) within 20 days after the date the agency received the second genetic test results.

(b) Genetic test results must be accompanied by an authenticating affidavit by the person who performed the test, or by an authorized representative of the entity that performed the test, verifying that the test was conducted under scientifically accepted standards and that procedures necessary to make the test valid were followed. The agency may not rely on genetic test results that are not properly authenticated as described in this subsection to disestablish paternity.

(c) Repealed 6/15/2001.

(d) The agency will, in its discretion, consult with independent experts for assistance in resolving any issue, including disparities or conflicts in the medical evidence, paternity by estoppel, and the best interests of the child.

(e) The agency will, in its discretion, establish a three-member panel, consisting of agency staff, to conduct an administrative review under 15 AAC 125.242, 15 AAC 125.246, or (a) of this section to determine whether to disestablish paternity. The determination of the panel must be by majority vote.

(f) A decision under 15 AAC 125.232 - 15 AAC 125.246 and this section to disestablish paternity is effective from the date of filing of the petition to disestablish paternity under 15 AAC 125.236(a) unless the agency determines there is good cause to select a different effective date.

(g) The provisions of 15 AAC 125.118(c), (d), and (f) apply to proceedings under 15 AAC 125.232 - 15 AAC 125.246 and this section to the extent that those provisions are not inconsistent with a provision of AS 25.27.166, 15 AAC 125.232 - 15 AAC 125.246, or this section. The provisions of 15 AAC 05.010 and 15 AAC 05.025 - 15 AAC 05.040 regarding formal hearings apply to appeals of administrative review decisions issued under 15 AAC 125.232, 15 AAC 125.246, and this section.

(h) During the pendency of a proceeding under 15 AAC 125.232 - 15 AAC 125.246, and this section, the petitioner shall pay to the agency all support payments that are due.

History: Eff. 10/1/98, Register 147; am 6/15/2001, Register 158

Authority: AS 25.27.020
AS 25.27.166

15 AAC 125.259. Paternity by estoppel

For purposes of 15 AAC 125.218(c), 15 AAC 125.244(c), and 15 AAC 125.252, paternity by estoppel is indicated, based on a person's actions despite a lack of biological evidence of paternity, by evidence that the

- (1) person directly or impliedly represented to the child that he is the child's father;
- (2) person intended the child to rely on this representation;
- (3) child relied on the representation and suffered financial prejudice as a result; and
- (4) child remained ignorant of the true facts.

History: Eff. 10/1/98, Register 147; am 6/15/2001, Register 158

Authority: AS 25.27.020

AS 25.27.165

AS 25.27.166

15 AAC 125.260. Agency to release location

Repealed.

History: Eff. 3/31/82, Register 81; repealed 10/1/98, Register 147

15 AAC 125.261. Genetic testing costs in paternity proceedings

(a) Except as provided in (b) of this section, the agency will assess against a child's putative father any costs that the agency pays for genetic testing. For genetic testing costs assessed under this section, the agency will include

(1) the amount billed to the agency for the genetic tests in the subject case by the genetic testing laboratory;

(2) the costs paid by the agency to transport the individuals to be tested in the subject case to the nearest available facility for collection of genetic testing samples; and

(3) the cost of food and lodging paid by the agency to individuals tested in the subject case.

(b) The agency will not assess costs against a child's putative father under (a) of this section if

(1) the agency determines that the putative father is not the biological father of the child;

(2) the putative father is receiving public assistance when the agency issues the administrative decision finding paternity under 15 AAC 125.222; or

(3) the agency finds good cause not to assess costs against the putative father because the assessment of costs would

(A) not be in the best interests of the child;

(B) cause undue hardship to the putative father or the putative father's family; or

(C) be unfair to the putative father given all of the relevant circumstances in the case.

(c) Except as provided in (d) of this section, the agency will pay a person's transportation costs to and from the nearest available facility for the collection of genetic testing samples if the facility is not located within a 50-mile radius of the city, town, or village where the individual resides. The agency will pay lodging and meal costs only if the person qualifies for transportation costs under this subsection.

(d) If the person can travel to and from the nearest available facility for the collection of genetic testing samples, and have a genetic testing sample collected on the same day, the agency will

(1) not pay lodging costs;

(2) pay the person for meals at the rate of \$9 for breakfast, \$11 for lunch, and \$22 for dinner, if the person is in travel status during the meal allowance period for three consecutive hours; and

(3) pay \$10 for ground transportation in connection with an air flight.

(e) If the person cannot travel to and from the nearest available facility for the collection of genetic testing samples, and have a genetic testing sample collected on the same day, the agency will pay a total of \$110 to the person to cover meals, lodging, and ground transportation.

(f) As used in this section,

(1) "meal allowance period" means the following time periods for each meal:

(A) for breakfast, 12:01 a.m. - 10 a.m.;

(B) for lunch, 10 a.m. - 3:00 p.m.;

(C) for dinner, 3:00 pm - Midnight;

(2) "travel status" means the time a required trip begins until it ends; for purposes of this paragraph, "required trip" means a trip that

(A) the agency requires in order for the person to reach the nearest available facility to have a genetic testing sample collected;

(B) begins when the person leaves the person's residence or normal work location to travel to the facility; and

(C) ends when the person returns to the person's residence or normal work location.

History: Eff. 11/30/2002, Register 164

Authority: AS 25.20.050

AS 25.27.020

AS 25.27.040

AS 25.27.165

AS 25.27.166

15 AAC 125.270. Contact when location not released

Repealed.

History: Eff. 3/31/82, Register 81; repealed 10/1/98, Register 147

Article 4

Review and Adjustment of Support Obligations

Section

- 310. (Repealed).
- 311. Notice of right to review.
- 315. (Repealed).
- 316. Initiation of review of support orders.
- 320. (Repealed).
- 321. Modification of administrative support orders.
- 325. (Repealed).
- 326. Review of judicial support orders.
- 330. (Repealed).
- 331. Expedited procedure for modifications for medical support or post-majority support only.
- 335. Procedures for automated review and adjustment of support order.
- 340. Adding children to an existing administrative support order.

15 AAC 125.310. Administrative enforcement of support order or income withholding order issued in another state

Repealed.

History: Eff. 11/28/96, Register 140; repealed 10/1/98, Register 147

15 AAC 125.311. Notice of right to review

The agency will provide notice once every three years to each parent subject to a support order informing the parent of the parent's right to request that the agency review and, if appropriate, take the necessary actions to adjust the support order. The agency will, in its discretion, include this notice in the support order. However, if the support order was not issued or has not been modified within the past three years, the agency will give the notice required by this section separately by first class mail or by electronic means.

History: Eff. 10/1/98, Register 147

Authority: AS 25.27.020(a)
AS 25.27.193

15 AAC 125.315. Registration of support order or income withholding order issued in another state

Repealed.

History: Eff. 11/28/96, Register 140; repealed 10/1/98, Register 147

15 AAC 125.316. Initiation of review of support orders

(a) The agency may initiate a review of a support order at the request of a parent who is subject to the support order or a child support agency of another state if

(1) the support order was issued by or may be registered with a tribunal of this state under AS 25.25.609; and

(2) a tribunal of this state has jurisdiction to modify the order.

(b) The agency may initiate a review of a support order at its own discretion if

(1) the support order was issued by or may be registered with a tribunal of this state under AS 25.25.609;

(2) at least one of the following conditions is met:

(A) the support has been assigned to a state;

(B) a medical support order is not in effect as provided in AS 25.27.063 and 15 AAC 125.085;

(C) the existing support order does not contain a provision for post-majority support to continue under the circumstances described in AS 25.27.061;

(D) the agency has reason to believe that the parties to the relationship have an additional child of the relationship who is not covered by the existing support order;

(E) the agency has reason to believe that a court of competent jurisdiction has ordered a change in custody;

(F) other circumstances exist that may justify a modification of the support obligation; and

(3) a tribunal of this state has jurisdiction to modify the order.

(c) Upon initiation of a review under (a) or (b) of this section, the agency will send a notice of petition for modification and a request or an order for production of financial and medical information under 15 AAC 125.040 by first class mail or electronic means to

each parent subject to the support order and, if appropriate, to a child support enforcement agency of another state.

(d) A review under this section of a support order based on sole or primary custody, for which support was calculated under Alaska Rule of Civil Procedure 90.3(a), is not necessary to adjust an obligation in a circumstance described in this subsection. In place of the review, the agency will reduce the support obligation to the next lower obligation amount under the guidelines of Alaska Rule of Civil Procedure 90.3 or will suspend or terminate the support obligation if only one child was covered by the order. The provisions of this subsection apply to reduce a support obligation for a child

(1) who has reached legal age of majority or is considered under 15 AAC 125.873 to be emancipated;

(2) for whom paternity has been disestablished;

(3) who has been adopted; or

(4) who has died.

(e) Before initiating a review in response to a request under (a)(3) of this section, the agency may require the party that asks for the review to provide evidence that the child support award as calculated under 15 AAC 125.070 and the child support guidelines of Alaska Rule of Civil Procedure 90.3 is more than 15 percent greater or less than the support obligation that is set out in the current support order. If the party fails to provide that evidence, the agency may decline to complete the review. The agency will not require the party to provide proof of a 15-percent change under this section if more than three years has elapsed since the support order was issued or modified.

(f) If the agency receives a request for review under (a) of this section or seeks to initiate a review under (b) of this section and the agency determines that no tribunal within this state has jurisdiction to modify the order under AS 25.25.611 or 25.25.613, the agency will cease its review and will refer the request for review to a child support agency located within the state that the agency determines may have jurisdiction to modify the order.

History: Eff. 10/1/98, Register 147; am 11/30/2002, Register 164; am 4/1/2005, Register 173

Authority: AS 25.27.020
AS 25.27.193

15 AAC 125.320. Contesting registration of support order or income withholding order issued in another state

Repealed.

History: Eff. 11/28/96, Register 140; repealed 10/1/98, Register 147

15 AAC 125.321. Modification of administrative support orders

(a) If the support order for which review has been initiated under 15 AAC 125.316 was issued by or registered with the agency for modification, the agency will review the order upon receipt of the required financial and medical information or upon the expiration of the period for providing the information under 15 AAC 125.040, whichever occurs first. Based on that review, the agency will issue a written review decision. The agency's written review decision must grant or deny the petition for modification. If the agency grants the petition for modification, the decision must also set out the modified support amount and the effective date of the modification. In addition, the agency's written review decision must include the findings that are required by 15 AAC 125.090.

(b) The agency

(1) will grant the petition for modification if, based on a review of all of the information available to the agency including, if appropriate, the data provided by the Department of Labor and Workforce Development, the agency determines that the child support award calculated under 15 AAC 125.070 and the child support guidelines of Alaska Rule of Civil Procedure 90.3 is more than 15 percent greater or less than the amount of the support obligation that is set out in the outstanding support order; or

(2) may grant the petition for modification if it determines that the child support award calculated under 15 AAC 125.070 and the child support guidelines of Alaska Rule of Civil Procedure 90.3 is not more than 15 percent greater or less than the amount of the support obligation that is set out in the outstanding support order if any of the following conditions is met:

(A) a medical support order is not in effect as provided under 15 AAC 125.085 and AS 25.27.063;

(B) other circumstances exist that justify a modification of the support obligation;

(C) more than three years have elapsed since the support order was issued or modified.

(c) When it has issued a written review decision granting or denying a petition of modification under (a) of this section, the agency will send a copy of the decision by first class mail or electronic means to each parent and, if appropriate, to a child support enforcement agency of another state. Upon receipt of the review decision, a parent may appeal by submitting a written request for a formal hearing. The provisions of 15 AAC 05.010 and 15 AAC 05.025 - 15 AAC 05.040 regarding formal hearings apply to appeals

under this subsection to the extent those provisions are not inconsistent with a provision of this section.

(d) The effective date of a modification that is granted under (a) of this section is the first day of the month following the date on which the notice of petition for modification was served on the nonrequesting parent.

(e) The agency will, in its discretion, commence enforcement of the modified support amount upon issuance of the review decision under (a) of this section. If a parent requests a formal hearing under (c) of this section, the agency may not stay enforcement of the modified support amount unless the obligor posts security or a bond in an amount sufficient to secure payment of past support conditioned upon final determination of the formal hearing. The collection and disbursement of the ongoing support obligation that is stated in the administrative review decision will continue regardless of posting of a bond or security under this section.

History: Eff. 10/1/98, Register 147; am 11/30/2002, Register 164; am 4/1/2005, Register 173

Authority: AS 25.27.020
AS 25.27.190
AS 25.27.193

Editor's note: As of Register 151 (October 1999), the regulations attorney made technical revisions under AS\44.62.125(b)(6) to reflect the name change of the Department of Labor to the Department of Labor and Workforce Development made by ch. 58, SLA 1999 and the corresponding title change of the commissioner of labor.

15 AAC 125.325. Temporary support orders

Repealed.

History: Eff. 11/28/96, Register 140; repealed 10/1/98, Register 147

15 AAC 125.326. Review of judicial support orders

(a) If the support order for which review has been initiated under 15 AAC 125.316 was issued by or registered in a court of this state, the agency will review the order upon receipt of the required financial and medical information or upon the expiration of the period for providing the information under 15 AAC 125.040, whichever occurs first. Based on that review, the agency will determine whether a modification of the support order is appropriate. The agency will determine that a modification is appropriate based on at least one of the following reasons:

(1) the child support award calculated under 15 AAC 125.070 and the child support guidelines of Alaska Rule of Civil Procedure 90.3 is more than 15 percent greater or less than the amount of the support obligation that is set out in the outstanding support order;

(2) a medical support order is not in effect as provided in AS 25.27.063 and 15 AAC 125.085; or

(3) other circumstances exist that may justify a modification of the support obligation;

(4) more than three years have elapsed since the support order was issued or modified.

(b) Repealed 4/1/2005.

(c) If the agency determines that a modification of the support order is appropriate under (a) of this section, it will promptly forward the file to the Department of Law to present the determination in judicial proceedings for modification of the support order.

(d) If the agency determines that a modification of the support order is not appropriate, the agency will issue a notice of denial of review. The agency will send the notice of denial of review to both parents and, if appropriate, to a child support agency of another state by first class mail or by electronic means. An administrative appeal is not available from the notice, but the decision is final for the purpose of appeal to the superior court.

History: Eff. 10/1/98, Register 147; am 11/30/2002, Register 164; am 4/1/2005, Register 173

Authority: AS 25.27.020
AS 25.27.045
AS 25.27.193

15 AAC 125.330. Procedures for certain administrative actions under AS 25.25

Repealed.

History: Eff. 11/28/96, Register 140; repealed 10/1/98, Register 147

15 AAC 125.331. Expedited procedure for modifications for medical support or post-majority support only

(a) If a review is initiated by the agency because a medical support order is not in effect, a medical support order does not comply with 15 AAC 125.085 or AS 25.27.063,

or the existing support order does not contain a provision for post-majority support to continue under the circumstances described in AS 25.27.061, the agency may seek a modification of the support order only to include a medical support order, to modify the existing medical support order, or to add post-majority support without first issuing a notice of petition for modification or completing a full review of financial information. If the agency elects to proceed under this section, no other provision of the support order may be modified.

(b) If the support order was issued by or registered with the agency, the agency may add a medical support provision or a post-majority support provision to the order or modify an existing medical support provision under (a) of this section by sending a notice by first class mail or by electronic means to the parents subject to the support order and, if appropriate, to a child support agency of another state. The notice must state that a medical support order or a post-majority support provision is being included in the support order or that an existing medical support order is being modified. Either parent may appeal this decision by submitting a written request for a formal hearing. The provisions of 15 AAC 05.010 and 15 AAC 05.025 - 15 AAC 05.040 regarding formal hearings apply to an appeal under this subsection.

History: Eff. 10/1/98, Register 147; am 4/1/2005, Register 173

Authority: AS 25.27.020

AS 25.27.045

AS 25.27.060

AS 25.27.061

AS 25.27.190

15 AAC 125.335. Procedures for automated review and adjustment of support order

(a) The agency may review a support order, as provided under 15 AAC 125.316(a) and (b), through an automated method. The use of an automated method under this section includes the application of a cost-of-living adjustment or the use of other databases such as Department of Labor and Workforce Development information.

(b) If the support order for which review has been initiated through an automated method was issued by or registered with the agency, the agency will send a notice by first class mail or by electronic means to each parent subject to the order and, if appropriate, to a child support enforcement agency of another state. The notice must inform the recipients of the notice that the support order has been reviewed by automated methods and must give notice of the modified support amount and the effective date of the modification. Upon receipt of the notice, either parent may appeal by submitting a written request for a formal hearing. The provisions of 15 AAC 05.010 and 15 AAC 05.025 - 15 AAC 05.040 regarding formal hearings apply to an appeal under this subsection.

(c) The agency will, in its discretion, commence enforcement of the modified support amount upon issuance of a notice under (b) of this section. If a parent requests a formal hearing, the agency may not stay enforcement of the modified support amount unless the obligor posts security or a bond in an amount sufficient to secure payment of past support conditioned upon final determination of the formal hearing. The agency will continue to collect and disburse the modified ongoing support obligation regardless of posting of a bond or security under this subsection.

(d) If the support order for which review has been initiated through an automated method was issued by or registered in a court of this state, the agency will promptly forward the file to the Department of Law to present the determination in judicial proceedings for modification of the support order.

History: Eff. 10/1/98, Register 147; am 4/1/2005, Register 173

Authority: AS 25.27.020
AS 25.27.045
AS 25.27.190
AS 25.27.193

Editor's note: As of Register 151 (October 1999), the regulations attorney made technical revisions under AS 44.62.125(b)(6) to reflect the name change of the Department of Labor to the Department of Labor and Workforce Development made by ch. 58, SLA 1999 and the corresponding title change of the commissioner of labor.

15 AAC 125.340. Adding children to an existing administrative support order

(a) If while enforcing an administrative support order for the child of a relationship, the agency obtains evidence that the parties to that relationship have an additional child for whom a support order is not currently in effect, the agency will establish paternity for the additional child as provided in (b) of this section, and will establish support for the additional child as provided in (c) of this section

(1) upon a request from the custodial parent, the obligor, or a child support enforcement agency of another state; or

(2) if the additional child is receiving public assistance or medical assistance or is in state-sponsored foster care or placement.

(b) If paternity is not already established for an additional child described in (a) of this section, the agency will serve a notice of paternity and financial responsibility under AS 25.27.165 and 15 AAC 125.217 and will establish paternity for the additional child under AS 25.27.165 and 15 AAC 125.212 - 15 AAC 125.226.

(c) If the paternity of the additional child is already established by the evidence described in (a) of this section, or after paternity is established under (b) of this section, the agency

(1) will serve a notice and finding of financial responsibility on the noncustodial parent, in the manner specified in AS 25.27.160(a), and will send a copy of the notice to the child's custodial parent, and, if appropriate, to the child support enforcement agency of another state;

(2) after serving a notice under (1) of this subsection, will establish arrears under 15 AAC 125.105;

(3) will send a notice of petition for modification of the existing support order under 15 AAC 125.316, and will include with that notice a request or an order for production of financial and medical information under 15 AAC 125.040 to each parent subject to the existing support order; and

(4) after sending a notice under (3) of this subsection, will review and modify the existing support order under 15 AAC 125.321 to include the additional child.

(d) Arrears will be established under (c)(2) of this section up to the effective date of the modification of the existing support order to include the additional child. Any modification under (c)(4) of this section of an existing support order is effective on the first day of the month following the sending of notice under (c)(3) of this section.

(e) If all of the children of the relationship, including the additional child, are in the primary custody of one parent, the amount of arrears under (c)(2) of this section for the additional child will be calculated as follows:

(1) the arrears will be based on the incremental percentage increase in support related to the additional child, as set out in Alaska Rule of Civil Procedure 90.3(a), and the agency will apply that increase to the noncustodial parent's actual annual adjusted income for the periods for which arrears are established;

(2) if the agency determines that the noncustodial parent would have been entitled under Alaska Rule of Civil Procedure 90.3(c)(3) to a minimum \$50-per-month order based on the parent's actual income during the period in question, the agency will

(A) determine that arrears are not required to be paid on behalf of the additional child if the support amount set in the existing support order is equal to or more than \$50 per month; or

(B) base the arrears on the difference between \$50 per month and the support amount in the existing support order if the support amount in the existing support order is less than \$50 per month.

(f) If the children of the relationship, including the additional child, are not all in the primary custody of one parent, the amount of arrears under (c)(2) of this section will be calculated as follows:

(1) the arrears will be calculated by applying the appropriate formula under Alaska Rule of Civil Procedure 90.3(a) or (b) based on the custody of the additional child alone, or the additional children together if there is more than one additional child, but using the incremental percentage increase in support related to the additional child or children only, as set out in Alaska Rule of Civil Procedure 90.3(a), and applying that increase to each parents' actual annual adjusted income for the periods for which arrears are established;

(2) if the existing support order requires one parent to pay support and the agency determines that the same parent would be the obligor for the additional child but that parent would be entitled under Alaska Rule of Civil Procedure 90.3(c)(3) to a minimum \$50-per-month order based on the parent's actual income during the period in question, the agency will

(A) determine that arrears are not required to be paid on behalf of the additional child if the support amount set in the existing support order is equal to or more than \$50 per month; or

(B) base the arrears on the difference between \$50 per month and the support amount set in the existing support order if the support amount in the existing support order is less than \$50 per month.

(g) If the existing support order is a default order, the agency will notify the noncustodial parent of the right to request that the order be set aside under AS 25.27.195. If the noncustodial parent requests a review under AS 25.27.195, the agency will issue a new support order that includes an additional child identified under (a) of this section. If the noncustodial parent fails to request a review under AS 25.27.195, the agency will serve notice under (c)(1) of this section, but will not establish arrears under this section for the additional child unless the default order is based on the Male and Female Average Annual Wage Income by Age Group statistics provided by the Department of Labor and Workforce Development, or on similar wage statistics. If the default order is based on those statistics, the agency will establish arrears under (e) of this section using the statistical wage figure as the noncustodial parent's income.

(h) When establishing arrears under (c) of this section, the agency will calculate the support obligation under 15 AAC 125.070 for the first year of the period for which arrears are being established. For each year afterwards, the agency will determine whether a material change of circumstances occurred justifying a modification of the support amount for that year. For each year in which a material change of circumstances occurred, the agency will set the support obligation at the amount required under 15 AAC 125.070. For each year in which a material change of circumstances did not occur, the agency will set the support obligation at the amount set for the preceding year.

History: Eff. 6/15/2001, Register 158; am 4/1/2005, Register 173; am 4/15/2005, Register 174

Authority: AS 25.27.020

AS 25.27.160

AS 25.27.170

AS 25.27.190

AS 25.27.193

Article 5

Administrative Enforcement - General

Section

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15 AAC 125.405. Initiation of administrative enforcement action

(a) Upon receipt of an application for services for a child under AS 25.27.100, notification that a child is receiving public assistance or is in state-sponsored foster care or custody, or a request for services for a child from a child support enforcement agency of another state under AS 25.25 (Uniform Interstate Family Support Act) or a similar law of another state, the agency will initiate an administrative enforcement action against the obligor if there is a valid child support order in effect with respect to the child.

(b) The agency will initiate an administrative enforcement action by sending a letter of introduction to the obligor and the custodial parent by first class mail or by electronic means, or, if public assistance is being paid on behalf of the child, by sending a notice of public assistance to the obligor and the custodial parent by certified mail. The agency will also send a copy of the letter of introduction or notice of public assistance to a child support enforcement agency another state, if appropriate. The agency will send the letter or notice within 30 days after the agency knows the identity and address of the obligor. The notice must identify the child support order being enforced, the amount of the ongoing child support obligation, and the amount of arrears, if any, that the obligor currently owes. Notice is considered to have been given when sent to the last known and verified address of the obligor.

(c) A party may contest a letter or notice under (b) of this section, including the amount of arrears, by submitting to the agency a written request for administrative review within 30 days after mailing of the letter or notice. The request must state the specific reasons for the review and be accompanied by all documents upon which the person contesting the review intends to rely. The agency will, in its discretion, reject a request for administrative review if it does not comply with the requirements set out in this subsection. The agency will issue an administrative review decision as soon as practicable after receiving the request. If appropriate, the agency may request additional information from the person requesting the review or from any other source.

History: Eff. 10/1/98, Register 147; am 4/1/2005, Register 173

Authority: AS 25.27.020
AS 25.27.120
AS 25.27.140

15 AAC 125.410. Administrative attachment of property other than income

(a) Except as otherwise provided in AS 25.27 or in another section of this chapter, whenever the agency has reason to believe that a person, political subdivision, or department of the state possesses property that is due, owing, or belonging to an obligor, the agency will, in its discretion, at any time after the initiation of administrative enforcement under 15 AAC 125.405 or upon the request of a child support enforcement agency of another state under 42 U.S.C. 666(a)(14), issue and deliver to the person, political subdivision, or department an order to withhold and deliver any real or personal property, other than income, belonging to the obligor. An order to withhold and deliver issued under this section remains effective for the period stated in the order to withhold and deliver or until the support obligation, including arrears and any future support obligation, has been fully satisfied, whichever is earlier.

(b) Upon issuance of an order to withhold and deliver under (a) of this section, the agency will send a notice to the obligor by first class mail or by electronic means that the order to withhold and deliver has been issued and of the procedures to follow if the

obligor wishes to contest the withholding on the grounds that the withholding is improper due to a mistake of fact. The notice must also include any other information provided to the person to whom the order to withhold and deliver was issued.

(c) The obligor may contest the withholding under the order to withhold and deliver by submitting to the agency a written request for administrative review within 15 days after mailing of the notice under (b) of this section. The sole basis for contesting the withholding is that the withholding is improper due to a mistake of fact. The request must state the specific reasons for the contest and be accompanied by all documents upon which the person requesting the review intends to rely. The agency will, in its discretion, reject a request for administrative review if it does not comply with the requirements set out in this subsection. The agency will issue an administrative review decision as soon as practicable after receiving the request. If appropriate, the agency may request additional information from the person requesting the review or from any other source.

(d) An administrative appeal is not available from the administrative review decision issued under (c) of this section.

(e) The agency will continue the withholding under the order to withhold and deliver even if the obligor contests the withholding under (c) of this section. The agency may not stay the withholding for collection of arrears unless the obligor posts with the agency security or a bond in an amount sufficient to secure payment of past support conditioned upon final determination of the contest. The agency will continue to collect and disburse the ongoing support obligation regardless of posting of a bond or security under this subsection.

History: Eff. 10/1/98, Register 147

Authority: AS 25.27.020(a)
AS 25.27.140
AS 25.27.250

15 AAC 125.411. Contest of administrative attachment by third party

(a) Except for accounts maintained with a bank, credit union, or other financial institution, if an obligor or another person claims that property that the agency has seized under 15 AAC 125.410 is owned either in whole or in part by a person other than the obligor, the obligor or the other interested person may request the release and return of the property. A request for relief under this section must be made in writing and must be accompanied by proof of the obligor's and other person's ownership interest in the property.

(b) Upon receipt of a request for relief under (a) of this section, the agency may stop disbursement of the property or proceeds of the property obtained under 15 AAC

125.410, to the extent that the property or proceeds have not already been disbursed before the agency's receipt of the request for relief.

(c) Upon receipt of a request for relief under (a) of this section, the agency will send a notice of the request for relief by first class mail to the obligor, the custodial parent, and the person claiming an interest in the property. Any party may respond to the notice. The response must be in writing and must be postmarked or received by the agency within 30 days after the notice of request for relief is mailed to the party.

(d) The agency will issue an administrative review decision granting or denying the request for relief as soon as practicable after the time for response under (c)]of this section. In the administrative review decision, the agency will state the extent to which it finds that the property belongs to the obligor and is to be applied to the support obligation. An administrative appeal is not available from an administrative review decision issued under this subsection, but the decision is final for the purpose of appeal to the superior court.

(e) Unless the property or proceeds of the property have already been disbursed, the agency will release to the co-owner or other interested person, other than the obligor, the property or proceeds found to belong to that person.

History: Eff. 6/15/2001, Register 158

Authority: AS 25.27.020
AS 25.27.140
AS 25.27.250

15 AAC 125.412. Spousal support

The enforcement remedies available to the agency for collection of child support obligations are also available for the collection of spousal support if a spousal support obligation has been established for the custodial parent of a child for whom child support is being administered. The agency will terminate its collection of spousal support when the ongoing child support obligation has terminated and all child support arrears have been satisfied.

History: Eff. 10/1/98, Register 147

Authority: AS 25.27.020
AS 25.27.045

15 AAC 125.415. Voiding fraudulent property transfers

(a) When there is evidence to suggest that an obligor may have fraudulently transferred property in order to avoid paying child support, the agency will review the evidence and pursue further investigation, as the agency deems appropriate, to determine whether a prima facie case of fraud exists or whether there is otherwise sufficient evidence to establish a fraudulent transfer of property under AS 25.27.279.

(b) In determining under (a) of this section whether a prima facie case of fraud exists or there is otherwise sufficient evidence to establish a fraudulent transfer of property under AS 25.27.279, the agency will, in its discretion, consider any of the following:

(1) direct or indirect evidence of the obligor's intent to hinder, delay, or avoid the payment of child support, including the obligor's payment history and other conduct of the obligor while the obligor owed child support;

(2) if property was transferred, the value of the consideration received by the obligor was not reasonably equivalent to the value of the property transferred;

(3) if property was transferred, the transfer was made to a family member or relative of the obligor or a person with whom the obligor has a personal relationship;

(4) if property was transferred, the obligor retained possession or control of the property after the property was transferred;

(5) if property was transferred, the transfer was concealed;

(6) if property was transferred, the obligor had been sued or threatened with suit or other enforcement action by the agency or another interested party before the transfer was made;

(7) if property was transferred, the transfer was of substantially all the obligor's assets;

(8) the obligor absconded;

(9) the obligor removed or concealed assets;

(10) if property was transferred, the obligor was insolvent or became insolvent shortly after the transfer was made; or

(11) if property was transferred, the transfer occurred shortly before or shortly after the establishment of paternity or issuance of a child support order.

(c) If, after considering the criteria set out in (b) of this section, the agency determines that there is a prima facie case of fraud or otherwise sufficient evidence to establish a fraudulent transfer of property by an obligor, the agency will refer the case to the Department of Law to take appropriate legal action to void the property transfer,

unless the agency determines that a settlement of the claim is in the best interests of the child support obligee.

History: Eff. 10/1/98, Register 147

Authority: AS 25.27.020
AS 25.27.279

15 AAC 125.418. Reporting of arrears to credit bureaus and lending institutions

(a) If an obligor owes arrears of more than \$1,000, the agency will report the name of the obligor and the amount of arrears owed by that obligor to a credit bureau or lending institution. The agency will make the report to a credit bureau or lending institution on a monthly basis.

(b) Before the agency initiates a report under (a) of this section, the agency will notify the obligor. The agency will provide notice in the manner described in AS 25.27.265(a). If the agency terminates its reporting under this section and thereafter reinitiates reporting under (a) of this section and the reinitiated reporting begins

(1) more than one year after the termination, the agency will again notify the obligor as required by this subsection;

(2) no more than one year after the termination, the agency is not obligated to again notify the obligor as required by this subsection before the agency reinitiates reporting under (a) of this section.

(c) The obligor has 15 days after the date of mailing of the notice provided in (b) of this section in which to make a written request for an administrative review. The request must state the specific reasons for the administrative review and be accompanied by the documentation upon which the obligor intends to rely. The agency will, in its discretion, reject a request for administrative review if the request does not comply with the requirements of this subsection. The agency's administrative review is limited to the following issues:

(1) whether there is a support order under which arrears have accrued;

(2) whether the obligor requesting the review is the person who is covered by the support order;

(3) whether the obligor owes support arrears that are more than \$1,000; and

(4) whether the amount of arrears that the agency intends to report to a credit bureau or lending institution is correct.

(d) Unless the request for administrative review is rejected under (c) of this section, the agency will conduct an administrative review within 10 days after the agency receives a request for administrative review. As soon as practicable after concluding an administrative review, the agency will issue a decision. An administrative appeal is not available from the administrative review decision issued under this section.

(e) If any change in the status or amount of the obligor's arrears occurs, the agency will report the change to the credit bureau or lending institution. If the obligor pays the arrears in full, the agency will report this fact to the credit bureau or lending institution and will terminate reporting under (a) of this section without further notice to the obligor.

History: Eff. 10/1/98, Register 147; am 12/8/99, Register 152

Authority: AS 25.27.020
AS 25.27.273

15 AAC 125.420. Denial, revocation, or limitation of passports

(a) If an obligor owes an amount in excess of \$5,000 in support arrears under a support order, the agency will certify this fact to the Secretary of State for denial, revocation, or limitation of the obligor's passport.

(b) Before making the certification under (a) of this section, the agency will notify the obligor that the agency has determined that the obligor's support arrears under a support order exceed \$5,000, that the agency intends to certify this fact to the Secretary of State, that the agency's certification to the Secretary of State may result in the denial, revocation, or limitation of the obligor's passport, and that the obligor may contest the agency's determination. The agency will provide the notice required by this subsection in the manner described in AS 25.27.265(a).

(c) An obligor to whom notice is given under (b) of this section has 15 days after the date of mailing of the notice in which to make a written request for an administrative review to contest the agency's determination. The request must state the specific reasons for the review and be accompanied by all documents upon which the person requesting the review intends to rely. The agency will, in its discretion, reject a request for administrative review if the request does not comply with the requirements of this subsection. The agency's administrative review is limited to the following issues:

- (1) whether there is a support order under which arrears have accrued;
- (2) whether the obligor is the person who is covered by the support order; and
- (3) whether the obligor owes support arrears in excess of \$5,000.

(d) Unless the request for an administrative review is rejected under (c) of this section, the agency will conduct an administrative review within 10 days after the agency receives a request for an administrative review. The agency will issue a decision as soon as practicable after the completion of the administrative review. An administrative appeal is not available from the administrative review decision issued under this section.

(e) If, after the agency has provided a certification to the Secretary of State under (a) of this section, the obligor reduces the amount of the obligor's arrears to not more than \$5,000, the agency will report that change in the amount of the obligor's arrears to the Secretary of State.

History: Eff. 10/1/98, Register 147

Authority: AS 25.27.020
AS 25.27.080
AS 25.27.140

15 AAC 125.425. Enforcement of medical support order

Repealed.

History: Eff. 10/1/98, Register 147; repealed 11/30/2002, Register 164

15 AAC 125.426. Notice to employer to withhold for health care coverage

(a) Except as provided in 15 AAC 125.428, if the agency is enforcing a support order that requires a parent to provide health care coverage for the children, the agency will send to the parent's employer a notice to withhold for health care coverage. The notice will be sent by first class mail or by electronic means, within two business days after the entry of the parent in the state directory of new hires under AS 25.27.075 or within 10 business days after the agency learns of the identity of the parent's employer through sources other than the state directory of new hires. Notice will not be sent under this section if the agency has made a finding of the existence and availability of alternative coverage under 15 AAC 125.427(f).

(b) If the support order requires a parent to provide health care coverage for the children but does not specify which parent is to provide the coverage, or if both parents have coverage available to them through an employment-related group health plan, the agency will send the notice under (a) of this section to the non-custodial parent's employer.

(c) To the extent required by federal law, the agency will use the standard forms promulgated under 42 U.S.C. 666(a)(19) for providing notice to the employer under (a) of this section.

(d) If health care coverage is available for the employee's children, the employer shall transfer the notice sent under (a) of this section to the appropriate group health plan within 20 business days after the date the notice is sent to the employer. Subject to the withholding priorities in 15 AAC 125.570 - 15 AAC 125.572, the employer shall withhold from the employee's income the employee contribution necessary for coverage of the children and send any amount withheld directly to the appropriate group health plan, as required by the plan. If health care coverage is not available, the employer shall notify the agency within 20 days after the notice was sent by completing and returning the forms provided by the agency.

(e) The agency will promptly notify the employer when the agency is no longer enforcing a medical support order for the children.

(f) An employer who has received a notice under (a) of this section shall provide the agency with the policy name and number of any group health plan that provides coverage for the children and the name of each individual covered by the policy. The employer shall provide this information to the agency by completing and returning the forms provided by the agency within 14 days after the notice is sent to the employer under (a) of this section.

(g) The employer shall notify the agency within 20 days after a change occurs in the required health care coverage or a change occurs in the parent's employment that may affect the health care coverage available for the children.

(h) A notice issued under (a) of this section remains effective until the

(1) support obligation has terminated as provided in 15 AAC 125.873;

(2) medical support order upon which the notice was based is terminated or modified by subsequent order issued by a tribunal of competent jurisdiction;

(3) agency sends the employer a notice terminating the notice issued under (a) of this section; or

(4) employer has terminated the obligor's employment and at least three years have elapsed since that termination without reemployment of the obligor.

History: Eff. 11/30/2002, Register 164; am 4/1/2005, Register 173

Authority: AS 25.27.020

AS 25.27.060

AS 25.27.062

AS 25.27.063

AS 25.27.140

15 AAC 125.427. Contesting medical support withholding

(a) The agency will notify the parents and a child support agency of another state, if appropriate, when a notice to withhold for health care coverage has been sent to a parent's employer under 15 AAC 125.426(a). The notice will be sent by first class mail or by electronic means. In the notice, the agency will describe the procedures that a party must follow if the party wishes to contest the withholding.

(b) A parent may contest the withholding for health care coverage by requesting an administrative review within 30 days after the date on which the notice was sent to the parent under (a) of this section or at any time after a material change in circumstances occurs that affects the need for or availability of coverage. The request must be in writing, state the specific reasons for the contest, and be accompanied by the documentation upon which the parent requesting the review intends to rely.

(c) The agency's administrative review under this section is limited to whether a mistake of fact has occurred, including whether

(1) the parent is required to provide health care coverage for the children through an employment-related group health plan;

(2) health care coverage through an employment-related group health plan is available to the parent at a reasonable cost;

(3) health care coverage is available at a reasonable cost to the other parent through an employment-related group health plan and that coverage better meets the needs of the children;

(4) the children are eligible for alternative health care coverage and the coverage is available for the children; or

(5) unusual circumstances exist relating to health care coverage, including

(A) extraordinary medical or other needs of the children;

(B) unusual hardship to a parent or a parent's family;

(C) the relative cost of the coverage in comparison with the ongoing support amount;

(D) the effect of coverage or lack of coverage on the interests of the children; and

(E) any agreement by the parents on health care coverage.

(d) A request based on a claim that alternative health care coverage is available for the children must include proof of the alternative coverage. As proof of alternative

coverage, the requestor may include, for the agency's consideration under (f) of this section,

(1) health care coverage available through the employer of either parent's spouse, or of any other family member;

(2) health care coverage that is purchased by either parent and is not an employment-related group health plan; or

(3) privately or publicly funded health care services, including services available to tribal members and military personnel, but not including Medicaid benefits unless authorized as alternative coverage under federal law.

(e) The agency will conduct an administrative review within 20 days after it receives the written request under (b) of this section. An administrative appeal is not available from an administrative review decision issued under this subsection, but the decision is final for the purpose of appeal to the superior court.

(f) The agency will allow alternative coverage as a substitute for employment-related coverage under (c)(4) of this section only if

(1) the court or administrative support order stipulates to alternative coverage or the order does not specify the type of coverage to be provided; and

(2) after consultation with the parents and an assessment of which coverage would better meet the health care needs of the child at a reasonable cost, the agency makes a determination to allow alternative coverage as a substitute for a parent's employment-related coverage.

(g) Withholding by the employer for employee contributions for health care coverage under 15 AAC 125.426(d) must continue while an administrative review is pending under this section.

History: Eff. 11/30/2002, Register 164

Authority: AS 25.27.020

AS 25.27.060

AS 25.27.062

AS 25.27.063

AS 25.27.140

AS 25.27.250

15 AAC 125.428. Notice of medical support order; proof of health care coverage not related to employment

(a) If the agency is enforcing a support order that requires a parent to provide health care coverage for a child, other than coverage provided by a parent through an employment-related group health plan, the agency will notify the parents in writing of the requirement to provide health care coverage.

(b) If a support order under (a) of this section does not specify which parent is to provide the coverage and both parents have health care coverage available at a reasonable cost, and if the rights to accrued and continuing child support have

(1) not been assigned to this or another state, the parents shall agree on who will purchase the coverage for the child; however, if the parents cannot agree, they shall inform the agency in writing and the agency will select the coverage that the agency determines will best meet the medical needs of the children at a reasonable cost; or

(2) been assigned to this or another state, the agency will require the non-custodial parent to provide the health care coverage for the children.

(c) If the agency selects coverage under (b) of this section, the agency will send a notice to the parents of the selection. A parent may contest the selection by requesting an administrative review within 30 days after the date on which the notice is sent to the parents. The request must be in writing, state the specific reasons for the contest, and be accompanied by the documentation upon which the parent requesting the review intends to rely. The agency will conduct an administrative review within 20 days after it receives the request. The agency's administrative review is limited to whether

(1) the coverage selected by the agency is available to the parent at a reasonable cost; or

(2) coverage other than the one selected by the agency would better meet the medical needs of the children at a reasonable cost.

(d) An administrative appeal is not available from the administrative review decision issued under (c) of this section, but the decision is final for the purpose of appeal to the superior court.

(e) A parent who is required to provide health care coverage for a child, other than through an employment-related group health plan, shall provide to the agency proof of health care coverage and the cost of the coverage within 20 days after the agency sends the notice under (a) of this section. Proof of coverage must be made by filing with the agency a copy of the appropriate insurance form extending the coverage to the children, along with an affidavit that the form has been filed with the insurance company. Proof of coverage must include the name of the insurance provider, policy number, identification number, provider address, names of persons covered, cost of medical coverage for the children covered by the support order, and effective date of coverage for the children covered by the support order.

(f) After the parent has provided proof of coverage under (e) of this section, if a change occurs in the required health care coverage, the parent shall notify the agency in writing within 20 days after the change and provide any additional proof of coverage to the extent that the information provided under (e) of this section has changed.

History: Eff. 11/30/2002, Register 164

Authority: AS 25.27.020
AS 25.27.060
AS 25.27.063
AS 25.27.140

15 AAC 125.429. Selection of health care options

(a) If more than one coverage option is available through an employment-related group health plan, the employer shall provide the agency with information concerning the specific coverage provided by each option and the cost of the coverage for the children. Upon receipt of this information, the agency will contact both parents to determine which coverage option would be in the best interest of the children. The agency will select the coverage option that the agency determines will best meet the medical needs of the children at a reasonable cost. The agency will notify the employer of the coverage option selected.

(b) When the agency selects a coverage option under (a) of this section, the agency will send a notice to the parents of the selection. A parent may contest the selection by requesting an administrative review within 30 days after the date on which the notice is sent to the parents. The request must be in writing, state the specific reasons for the contest, and be accompanied by the documentation upon which the parent requesting the review intends to rely. The agency will conduct an administrative review within 20 days after it receives the request. The agency's administrative review is limited to whether

(1) the coverage option selected by the agency is available to the parent at a reasonable cost; or

(2) a coverage option other than the one selected by the agency would better meet the medical needs of the children at a reasonable cost.

(c) An administrative appeal is not available from the administrative review decision issued under (b) of this section, but the decision is final for the purpose of appeal to the superior court.

History: Eff. 11/30/2002, Register 164

Authority: AS 25.27.020
AS 25.27.060
AS 25.27.063

15 AAC 125.431. Collection of uncovered medical expenses

(a) The agency will collect uncovered medical expenses and any amounts paid directly by the insurer to a parent that were intended to reimburse the other parent for medical expenses incurred on behalf of the children, but only after the expenses or amounts have been reduced to judgment by a court of competent jurisdiction.

(b) A parent may request that amounts owed under (a) of this section be offset against child support arrears owed by or to that parent with respect to the children for whom the medical expenses were incurred. However, the agency will not offset money owed under this section against the ongoing support obligation for the children covered by the order or against arrears that have been assigned to the state as public assistance reimbursement.

History: Eff. 11/30/2002, Register 164

Authority: AS 25.27.020
AS 25.27.060
AS 25.27.063
AS 25.27.140

15 AAC 125.432. Adjustment for the cost of health care coverage

(a) If health care coverage is purchased for and is available to the children, the agency will grant a credit or debit against the child support obligation for amounts paid to provide health care coverage for the children in the amount or percentage stated in the support order. If the support order provides for a credit for health care coverage but does not specify the amount or percentage of credit to be given, the agency will allocate the cost of health care coverage equally between the parents.

(b) If the agency determines that a credit or debit is appropriate under this section, and if the

(1) obligor provides the coverage, the agency will decrease the obligor's support obligation by the amount or percentage stated in the support order or by one-half of the cost of coverage if the amount or percentage is not stated in the order; or

(2) custodial parent provides the coverage, the agency will increase the obligor's support obligation by the amount or percentage stated in the support order or by one-half of the cost of coverage if the amount or percentage is not stated in the order.

(c) The agency will grant a credit or debit under this section only if a parent has requested the credit and the parent or the parent's employer provides proof of coverage and proof of the cost of coverage for the children. Proof of coverage must be made by filing with the agency a copy of the appropriate insurance form extending the coverage to the children, a statement from the insurer or employer identifying the total number of individuals covered by the insurance policy, and a schedule or other statement from the employer or insurer showing the cost of coverage for the parent, the children, or other individuals.

(d) If the health care coverage includes coverage for the employee or individuals other than the children covered by the support order, the agency will credit only that portion of the cost of coverage paid to obtain coverage for the children covered by the order. In calculating the cost of coverage attributable to the children covered by the order, the agency will

(1) deduct from the total cost of health care coverage the cost of coverage for the parent alone if the parent is also covered by the health care coverage;

(2) allocate the cost of the coverage for individuals other than the parent equally among all individuals covered by the health care coverage other than the parent, if individuals other than the children covered by the order are included in the health care coverage; and

(3) apply the applicable amount or percentage stated in the support order to determine the credit or debit for health care coverage based on the amount of the cost of coverage allocated to the children covered by the support order under (2) of this subsection.

(e) The agency will grant a credit or debit prospectively from the date the parent purchases the health care coverage, the date the coverage was actually made available to the children, or the effective date of the order requiring the parent to provide health care coverage and allowing a credit or debit for the cost of the coverage, whichever date is later.

(f) if a parent must pay for health care coverage for the parent alone but can add the children to the coverage at no additional cost to the parent, the agency will not allow a credit or debit for the health care coverage provided for the children.

(g) The agency will send the parents a notice of the credit or debit allowed for health care coverage under this section. A parent may contest the notice by requesting an administrative review within 30 days after the date on which the notice was sent to the parent. The request must be in writing, state the specific reasons for the contest, and be accompanied by the documentation upon which the person requesting the review intends to rely. The agency's administrative review is limited to whether the agency correctly calculated the amount of the credit or debit. An administrative appeal is not available from the administrative review decision issued under this subsection, but the decision is final for the purpose of appeal to the superior court.

History: Eff. 11/30/2002, Register 164; am 4/1/2005, Register 173

Authority: AS 25.27.020
AS 25.27.060
AS 25.27.063
AS 25.27.140

15 AAC 125.435. Modification of administrative enforcement action based on evidence of unusual hardship

At any time after the initiation of an administrative enforcement action, an obligor may request that the administrative enforcement action be modified based on evidence of unusual hardship on the obligor or the obligor's family. The procedures set out in 15 AAC 125.550 apply to requests made under this section.

History: Eff. 10/1/98, Register 147; am 4/1/2005, Register 173

Authority: AS 25.27.020
AS 25.27.140

15 AAC 125.440. Procedures for contesting administrative subpoena

(a) A person who is issued an administrative subpoena under AS 25.27.085 or AS 25.27.086 may request an administrative review in order to establish good cause for the person's refusal to comply with the subpoena. A request for administrative review under this subsection must be made in writing and be filed within the time provided for compliance with the subpoena. The request must state the specific reasons for the administrative review and must include any documentation upon which the person intends to rely to establish good cause for noncompliance. The agency will, in its discretion, reject a request for review that does not comply with the requirements of this subsection.

(b) Upon receipt of a request for an administrative review under (a) of this section, the agency will review the request and any supporting documentation and related information to determine whether there is good cause for the person's failure to comply with the subpoena. The agency's review is limited to the following issues:

- (1) a mistake in the identity of the person served with the subpoena; or
- (2) a prohibition under law on release of the information.

(c) The agency will issue a decision as soon as practicable after completion of the administrative review. An administrative appeal is not available from the administrative review decision issued under this subsection.

(d) If a person who is issued an administrative subpoena under AS 25.27.085 or AS 25.27.086 fails to comply with the subpoena or request an administrative review of the subpoena within the time provided, the agency will, in its discretion, issue an order imposing the civil penalty provided under AS 25.27.085(d). An administrative appeal is not available from an order imposing a civil penalty under this subsection. The civil penalty provided by this subsection is not exclusive and is in addition to any other remedies available for noncompliance with an administrative subpoena, including license revocation and enforcement action under Alaska Rule of Civil Procedure 45(g).

History: Eff. 10/1/98, Register 147

Authority: AS 25.27.020
AS 25.27.085
AS 25.27.086

15 AAC 125.450. Referral for judicial orders to participate in appropriate work activities

(a) The agency will, in its discretion, review the circumstances of an obligor under an order of support to determine whether the matter is appropriate for referral to the Department of Law to request a court order under AS 25.27.020(d) requiring the obligor to participate in appropriate work activities. Except as provided in (b) of this section, the agency will refer a matter to the Department of Law to obtain an order under AS 25.27.020(d) if at least one of the following conditions is met:

(1) the obligor owes arrears in an amount that is equal to at least four times the monthly support obligation under the obligor's order of support; or

(2) if there is no longer an ongoing monthly support obligation, the obligor owes arrears greater than \$1,000.

(b) The agency will, in its discretion, refuse to refer a matter to the Department of Law under the conditions described in (a) of this section if there is evidence in the file that:

(1) the obligor is incapacitated to a sufficient degree to prohibit the obligor from working; a medical doctor or other licensed or certified health care professional must verify an incapacity alleged under this paragraph and the fact that the incapacity is sufficient to prevent the obligor from being gainfully employed;

(2) the obligor is caring for a child under the age of two to whom the parents owe a joint legal responsibility;

(3) the obligor has made one or more voluntary payments in excess of the ongoing support obligation during the three months immediately preceding the agency's review under (a) of this section;

(4) the obligor has made one or more payments pursuant to an income withholding order issued by this or another state during the past three months immediately preceding the agency's review under (a) of this section;

(5) the obligor has entered into a payment agreement approved by the agency and is paying according to that agreement;

(6) the obligor has requested that the administrative enforcement action be suspended or modified based on evidence of unusual hardship under 15 AAC 125.435 and the agency has granted the request; or

(7) an order under AS 25.27.020(d) to participate in appropriate work activities would not be appropriate given the obligor's particular circumstances.

(c) If there is evidence of a condition described in (a) of this section and no evidence that meets a circumstance set out in (b) of this section, and the agency determines that the facts support a request for an order under AS 25.27.020(d), the agency will refer the matter to the Department of Law to take appropriate legal action to obtain an order under AS 25.27.020(d).

History: Eff. 10/1/98, Register 147

Authority: AS 25.27.020(d)
AS 25.27.080

15 AAC 125.455. Offsetting child support arrears

(a) Upon the request of a party or upon order of a tribunal of competent jurisdiction, the agency will offset child support arrears owed by one parent against child support arrears owed by the other parent for the same child if the

(1) arrears for which an offset is requested are owed to the parent against whom an offset is sought; and

(2) agency determines that an offset is in the best interest of the child.

(b) The agency will not grant an offset of arrears under (a) of this section against

(1) arrears owed to the state or to another state as reimbursement for public assistance, medical assistance, or state-sponsored foster care or placement; or

(2) the ongoing support obligation owed by the other parent for the same child.

(c) A request for an offset under (a) of this section must be submitted to the agency in writing. If a tribunal of competent jurisdiction issued an order requiring the requested offset, the request must be accompanied by a copy of that order. Upon receipt of a request for an offset under this section, the agency will send a notice of the request by first class mail to the nonrequesting parent and, if appropriate, to the child support enforcement agency of another state. The nonrequesting parent may file a response to the request for an offset within 30 days after mailing of the notice under this subsection.

(d) The agency will issue an administrative review decision granting or denying the request for an offset under this section as soon as practicable after the time for response under (c) of this section. As necessary to determine whether an offset is permissible under (a) and (b) of this section, the agency may request additional information from the parents or from any other source. An administrative appeal is not available from the administrative review decision issued under this subsection, but the decision is final for the purpose of appeal to the superior court.

History: Eff. 6/15/2001, Register 158

Authority: AS 25.27.020
AS 25.27.140

15 AAC 125.460. Garnishment of accounts with financial institutions

(a) At any time after the initiation of administrative enforcement under 15 AAC 125.405 or upon the request of a child support enforcement agency of another state under 42 U.S.C. 666(a)(14), the agency may issue an order to withhold and deliver to a bank, credit union, or other financial institution with which a child support debtor has an account. Unless the agency finds good cause based on unusual circumstances to issue an order to withhold and deliver, the agency will not issue an order to withhold and deliver under this section if the

(1) obligor owes an amount that is less than \$1,000 under the child support order;

(2) obligor owes an amount that is less than four times the monthly support obligation under the support order; or

(3) agency has received notice that the obligor has an active bankruptcy action pending.

(b) Upon issuance of an order to withhold and deliver under (a) of this section, the agency will send a notice to the obligor by first class mail or by electronic means that the order to withhold and deliver has been issued and of the procedures to follow if the obligor wishes to contest the withholding on the grounds that the withholding is improper

due to a mistake of fact or that a criterion set out in (a)(1), (a)(2), or (a)(3) of this section is met. In the notice the agency will also include any other information provided to the financial institution.

(c) The obligor may contest the order to withhold and deliver by submitting to the agency a written request for administrative review within 15 days after the notice is sent under (b) of this section. An obligor may contest the order to withhold and deliver on the grounds that the withholding is improper due to a mistake of fact or that a criterion set out in (a)(1), (a)(2), or (a)(3) of this section is met. The request must state the specific reasons for the contest and be accompanied by all documents upon which the person requesting the review intends to rely. The agency may reject a request for administrative review if it does not comply with the requirements set out in this subsection. The agency will issue an administrative review decision as soon as practicable after receiving the request. An administrative appeal is not available from the administrative review decision issued under this subsection, but the decision is final for the purpose of appeal to the superior court.

History: Eff. 6/15/2001, Register 158

Authority: AS 25.27.020
AS 25.27.140
AS 25.27.250

15 AAC 125.463. Joint accounts with financial institutions

(a) If an obligor or another person claims that an account that the agency has seized under 15 AAC 125.460 is jointly owned or that another person has an interest in the account, the obligor or the other interested person may request the release and return of the money in the account. A request for relief under this section must be made in writing and must be accompanied by proof of the obligor's and other person's interests in the account, including copies of applications, signature cards, account statements, evidence of deposits and withdrawals, or other evidence establishing the extent of the obligor's interest in the account and the extent of the other person's interest in the account.

(b) Upon receipt of a request for relief under (a) of this section, the agency may stay disbursement of the money obtained from the account for which joint ownership or another person's interest is claimed, to the extent that the money has not already been disbursed before the agency's receipt of the request for relief.

(c) Upon receipt of a request for relief under (a) of this section, the agency will send a notice of the request for relief by first class mail to the obligor, the custodial parent, and the person claiming to be a joint owner or to have an interest in the account. Any party may respond to the notice. The response must be in writing and must be postmarked or received by the agency within 30 days after the notice of request for relief is mailed to the party.

(d) The agency will issue an administrative review decision granting or denying the request for relief as soon as practicable after the time for response under (c) of this section. In the administrative review decision, the agency will state the extent to which it finds that the money in the account belongs to the obligor and is to be applied to the support obligation. An administrative appeal is not available from an administrative review decision issued under this subsection, but the decision is final for the purpose of appeal to the superior court.

(e) Unless the money has already been disbursed, the agency will release to the joint owner or other interested person, other than the obligor, the money found to belong to that person.

(f) If joint ownership of an account is established, the agency will apportion money among the joint owners in accordance with AS 13.33.211.

History: Eff. 6/15/2001, Register 158

Authority: AS 25.27.020
AS 25.27.140
AS 25.27.250

15 AAC 125.465. Credit for direct payments

(a) The agency will give credit for direct payments against an obligor's child support obligation established by a support order if the obligor provides clear and convincing evidence that the payment was made to the custodial parent and that both parents intended the payment to be a direct payment of child support. Evidence of direct payments includes

(1) copies of the front and back of cancelled checks and money orders;

(2) bank statements indicating deposits or electronic funds transfers;

(3) receipts signed by the custodial parent; and

(4) signed, notarized statements by the custodial parent, the obligor, or a third party with personal knowledge of the direct payments.

(b) A request for credit for direct payments must be made in writing and must be accompanied by the evidence required under (a) of this section. Unless the agency finds that extraordinary circumstances justified the direct payments, the agency will accept only one request for credit under this section after the obligor has received notice, including notice under AS 25.27.120(c) or a substantially similar law of another state, that payments must be made through the agency. The one request for credit permitted

under this subsection is in addition to any credit that may have been given for direct payments if the agency established arrears under 15 AAC 125.105 or for direct payments made during periods when the agency was not enforcing the order.

(c) Upon receipt of a request for credit under this section, the agency will mail a notice of the request to the nonrequesting party. The nonrequesting party may submit a response to the request for credit for direct payments. The response must be postmarked or received by the agency within 30 days after the date the notice under this subsection was mailed.

(d) The agency will issue an administrative review decision granting or denying the request for credit under this section as soon as practicable after the time for response under (c) of this section. As necessary to determine the existence of a direct payment, the intent of the parents, or the existence of extraordinary circumstances under (b) of this section, the agency may request additional information from the parents or from any other source. An administrative appeal is not available from the administrative review decision issued under this subsection, but the decision is final for the purpose of appeal to the superior court.

(e) If the agency grants the request for credit for direct payments and subsequently determines that as a result of the credit for direct payments, the agency has collected more than the support amount owed by the obligor, and if the agency has not yet disbursed the amount, the agency will refund to the obligor the amount collected in excess of the support obligation.

(f) Direct payments made after the obligor has received notice, under AS 25.27.120(c) or a similar law of another state, that public assistance is being paid on behalf of the children will not be credited against arrears that have been assigned to this or another state as a public assistance reimbursement.

(g) When the agency enforces an order issued by another state, and is

(1) enforcing the order at the request of another state, the agency will forward the request to that state for determination of the credit; or

(2) not enforcing the order at the request of another state, the agency will apply the law of that state to determine any credit for direct payments.

History: Eff. 6/15/2001, Register 158; am 4/1/2005, Register 173

Authority: AS 25.25.604
AS 25.27.020
AS 25.27.140

15 AAC 125.470. Credit for in-kind payments and payments in lieu of child support

(a) The agency will give credit for in-kind contributions against an obligor's child support obligation if

(1) a tribunal of competent jurisdiction has ordered the in-kind contribution in lieu of the payment of child support; or

(2) the obligation is established by a support order, the parties agree in writing to allow credit for the in-kind contribution, and the parties agree in writing to the dollar value of the in-kind contribution.

(b) The agency will give credit for an in-kind contribution under (a)(2) of this section only once. After the first request and credit, the agency will inform the parents that additional credits will not be given for in-kind contributions under (a)(2) of this section. The agency will not give credit for an in-kind contribution under (a)(2) of this section for any period of time during which the child received public assistance or was in state-sponsored foster care or placement.

(c) To receive credit for an in-kind contribution under (a)(2) of this section, the obligor must provide clear and convincing evidence of the in-kind contribution and the dollar value of that contribution.

(d) A request for credit for an in-kind contribution must be made in writing and must be accompanied by the evidence required under (c) of this section. Upon receipt of a request for credit under this section, the agency will mail a notice of the request to the nonrequesting party. The nonrequesting party may submit a response to the request for credit. The response must be postmarked or received by the agency within 30 days after the date the notice under this subsection is mailed.

(e) The agency will issue an administrative review decision granting or denying the request for credit under this section as soon as practicable after the time for response under (d) of this section. As necessary to determine the existence and dollar value of an in-kind contribution, the agency may request additional information from the parents or from any other source. An administrative appeal is not available from the administrative review decision issued under this subsection, but the decision is final for the purpose of appeal to the superior court.

(f) The agency will not include a provision for in-kind contributions in an administrative support order.

(g) If one of the parents identified in a support order described in (a)(1) of this section has applied for agency services or is receiving public assistance on behalf of the child, the agency will initiate a modification review under 15 AAC 125.316(b).

(h) When the agency enforces an order issued by another state, the agency will

(1) forward the request to that state for determination of the credit if the agency is enforcing the order at the request of another state; or

(2) apply the law of that state to determine any credit for in-kind contributions if the agency is not enforcing the order at the request of another state.

History: Eff. 6/15/2001, Register 158; am 4/1/2005, Register 173

Authority: AS 25.25.604

AS 25.27.020

AS 25.27.140

15 AAC 125.475. Credit for government benefits paid to child based on obligor's disability or retirement

(a) An obligor may request that the agency give credit against the obligor's child support obligation for government benefits paid to or on behalf of the obligor's child as a result of the obligor's disability or retirement. In order to qualify for a credit under this section,

(1) the obligor must provide proof of payment of the benefits, including a statement from the government agency that paid the benefits, listing each payment made for each child for whom a credit is sought;

(2) the benefits must be paid to the custodial parent, unless the custodial parent agrees in writing to an alternative payment arrangement;

(3) the benefits must be paid as a result of the obligor's disability or retirement or the benefits must be otherwise attributable to the obligor; and

(4) the benefits must be paid for the child for whom the support credit is requested.

(b) Upon receipt of a request that complies with (a) of this section, the agency will give credit for the benefits as follows:

(1) for benefits paid on a monthly basis,

(A) the agency will credit the benefits paid in any given month against the ongoing support obligation for the month in which the benefits are paid;

(B) if the benefits paid in a given month exceed the ongoing support obligation for the month in which the benefits are paid, the excess benefits will be applied to any arrears that accrued before the month in which the benefits are paid; however, the excess

benefits will not be applied to arrears that accrued before the month in which the benefits are paid if the arrears are owed to the state under AS 25.27.120(a) or (b); and

(C) if the benefits paid in a given month exceed the ongoing support obligation for the month in which the benefits are paid and any arrears that accrued before the month in which the benefits are paid, other than arrears owed to the state under AS 25.27.120(a) or (b), the excess benefits will be considered a voluntary payment, and that agency will not give credit will for the excess benefits;

(2) for benefits paid in a lump sum,

(A) the agency will credit the lump sum payment against the ongoing support obligation for the months that the lump sum payment is intended to cover;

(B) if the lump sum payment exceeds the ongoing support obligation for the months that the lump sum payment is intended to cover, the excess benefits will be applied to any arrears that accrued before the months that the lump sum payment is intended to cover; however, the excess benefits will not be applied to arrears that accrued before the months that the lump sum is intended to cover if the arrears are owed to the state under AS 25.27.120(a) or (b); and

(C) if the lump sum payment exceeds the ongoing support obligation for the months that the lump sum payment is intended to cover and any arrears that accrued before the months that the lump sum payment is intended to cover, other than arrears owed to the state under AS 25.27.120(a) or (b), the excess benefits will be considered a voluntary payment, and the agency will not give credit for the excess benefits;

(3) if the agency has collected support from the obligor in addition to the benefits paid to the child, the agency will apply the benefits to the obligor's support obligation as provided in (1) and (2) of this subsection; after applying those benefits to the obligor's support obligation as provided in (1) and (2) of this subsection, the agency will apply the amounts collected by the agency to any remaining ongoing support obligation and arrears owed by the obligor;

(4) the agency will not credit the benefits to the obligor's future child support obligation.

(c) Except as provided in (b) of this section, credit will be given for benefits under this section regardless of whether public assistance has been paid on the child's behalf during the period for which credit is sought under (a) of this section. If public assistance is paid on behalf of a child for whom credit is sought, the agency will send a notice to the Department of Health and Social Services, division of public assistance alerting the division to the payment of the benefits.

(d) Upon receipt of a request under (a) of this section, the agency will initiate a modification review under 15 AAC 125.316(b).

(e) When the agency enforces an order issued by another state, and is

(1) enforcing the order at the request of another state, the agency will forward the request to that state for determination of the credit; or

(2) not enforcing the order at the request of another state, the agency will apply the law of that state to determine any credit for government benefits paid to the child.

History: Eff. 6/15/2001, Register 158; am 4/1/2005, Register 173

Authority: AS 25.25.604
AS 25.27.020
AS 25.27.140

15 AAC 125.480. Credit for extended visitation

(a) If the support order includes a provision allowing an extended visitation credit, the obligor may request that the agency give credit for periods in which the obligor exercises extended visitation with the child for more than 27 consecutive days.

(b) If the support order provides a specific visitation period and the requested credit is for the specific visitation period ordered, the agency will grant the extended visitation credit upon receipt of written notification that the extended visitation is being exercised, subject to administrative review and reversal of the credit as provided in (d) of this section. The notification must specify the dates on which the extended visitation will begin and end. The extended visitation credit may be granted under this subsection before the completion of the extended visitation period.

(c) If the support order does not specify a certain period of extended visitation or the request for extended visitation credit is for a period other than the period stated in the order, a request for extended visitation credit must be made in writing and must be accompanied by evidence that the visitation has been exercised. An obligor may include as evidence

(1) written verification from the custodial parent that the visitation was exercised;

(2) school records showing the child's enrollment;

(3) day care receipts during the visitation period;

(4) affidavits from neighbors or relatives of the obligor or other persons with personal knowledge of the child's residence; and

(5) copies of airline tickets or other proof of transportation if the visitation occurred outside of the child's normal residence area.

(d) Upon receipt of a request for an extended visitation credit under (b) or (c) of this section, the agency will mail a notice of the request to the nonrequesting parent. The nonrequesting parent may submit a response to the request for extended visitation credit. The response must be postmarked or received by the agency within 30 days after the date the notice under this subsection was mailed. The agency will issue an administrative review decision granting or denying the request for extended visitation credit as soon as practicable after the time for response under this subsection. As necessary to determine whether extended visitation has been exercised, the agency may request additional information from the parents or from any other source. An administrative appeal is not available from the administrative review decision issued under this subsection, but the decision is final for the purpose of appeal to the superior court.

(e) In calculating the amount of the extended visitation credit, the agency will apply the percentage or dollar amount specified in the support order for the extended visitation credit. If a percentage or dollar amount is not specified in the support order, the agency will apply a credit of 50 percent of the monthly support obligation.

(f) If the extended visitation includes an entire calendar month, the agency will apply the percentage or dollar amount provided in (e) of this section to the monthly support obligation specified in the support order. If the extended visitation includes a portion of a calendar month, the agency will prorate the credit by the number of days included in the extended visitation period for that month. If the extended visitation credit does not include all of the children, the agency will apply the credit only against the support obligation attributable to each child for whom extended visitation was exercised.

(g) Nominal time with the custodial parent during the visitation period, including occasional overnights, does not defeat the visitation credit.

History: Eff. 6/15/2001, Register 158

Authority: AS 25.27.020
AS 25.27.200

15 AAC 125.490. Recording or filing a lien

(a) The agency will record or file a lien under AS 25.27.230 upon an obligor's real or personal property or limited entry permit issued under AS 16.43 in the amount of the obligor's liability under a support order if

(1) a valid support order is in effect under which the obligor owes arrears;

(2) the obligor does not have an active bankruptcy action pending; and

(3) the obligor owes an amount that is more than 12 times the monthly support obligation under the support order or the obligor's arrears under the support order exceed \$2,500, whichever is less.

(b) If the agency records or files a lien under (a) of this section, the agency will send a notice of the lien to the obligor, by first class mail, within 15 days after the agency receives the recorded lien or filing.

History: Eff. 11/30/2002, Register 164

Authority: AS 25.25.507
AS 25.27.020
AS 25.27.140
AS 25.27.230

15 AAC 125.495. Releasing a lien

(a) The agency will release a lien recorded or filed under AS 25.27.230 if the

(1) underlying support order is satisfied;

(2) agency closes the case because the obligor's location is unknown, and the agency has made diligent efforts to locate the obligor over a

(A) three-year period if information is sufficient to use an automated locate effort; or

(B) one-year period if information is insufficient to use an automated locate effort; or

(3) person to whom support is owed under the support order withdraws from agency services and all child support arrears under the order are owed to that person.

(b) If the agency releases a lien under this section, within 15 days after the agency receives the recorded release, the agency will notify the obligor by first class mail of the release.

History: Eff. 11/30/2002, Register 164

Authority: AS 25.25.507
AS 25.27.020
AS 25.27.140
AS 25.27.230

Article 6

Administrative Enforcement - Income Withholding

Section

- 500. Order requiring immediate income withholding.
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- 550. Modification of income withholding amount based on hardship.
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- 565. Termination of income withholding.
- 570. Priorities for withholding for a single order.
- 571. Priorities for withholding for multiple orders.
- 572. Priorities for withholding; exception.

15 AAC 125.500. Order requiring immediate income withholding

If the agency receives a support order that requires immediate income withholding

(1) for an order that is being enforced by the agency, the agency will promptly take all reasonable steps to locate an employer of the obligor; within two business days after the agency receives information regarding the identity and location of the obligor's employer, the agency will issue to the employer an order to withhold and deliver under AS 25.27.250, without prior notice to the obligor;

(2) for an order that is not being enforced by the agency, the agency will provide payment services only if the obligor or the custodial parent requests immediate income withholding by the agency or obtains immediate income withholding through a tribunal of competent jurisdiction other than the agency; payment services consist of the issuance of orders to withhold and deliver under AS 25.27.250, the receipt and disbursement of payments, and the maintenance of records of those payments; under this paragraph,

(A) if the agency receives a request from the obligor or the custodial parent for immediate income withholding under this paragraph, the agency will issue to the obligor's employer an order to withhold and deliver under AS 25.27.250, without prior notice to the obligor, within two business days after the agency receives information regarding the identity and location of the obligor's employer;

(B) an individual subject to the order or a child support enforcement agency of another state may apply for full collection services under 15 AAC 125.800; a withdrawal from full collection services in matters subject to immediate income withholding under this section does not terminate payment services under the support order.

History: Eff. 10/1/98, Register 147

Authority: AS 25.27.020
AS 25.27.062
AS 25.27.080
AS 25.27.250

15 AAC 125.505. Initiated income withholding

(a) If the agency is enforcing a support order that does not include an immediate income withholding order, the agency will initiate income withholding under AS 25.27.150 if:

(1) the obligor's support payments are in arrears in an amount that is at least equal to the support payable for one month;

(2) the obligor requests income withholding; or

(3) the custodial parent requests income withholding and the agency approves the request because

(A) the obligor's payments have been more than 10 days overdue at least two times during the preceding 12 months; or

(B) the agency has reason to believe that the obligor might withdraw assets to avoid payment of support.

(b) If the agency receives a support order that does not include an immediate income withholding order and the order is not being enforced by the agency, the agency will initiate income withholding under AS 25.27.150 if

(1) the obligor requests income withholding; or

(2) the custodial parent requests income withholding and the agency approves the request because the obligor's payments have been more than 10 days overdue at least two times during the preceding 12 months.

(c) The agency will initiate income withholding under (a) or (b) of this section by sending the obligor a notice that income withholding has commenced. The notice must comply with the requirements of AS 25.27.150(c) and must be served in the manner

required by AS 25.27.150(a). The notice must also state the basis for the agency's initiation of income withholding under (a) or (b) of this section.

(d) The obligor may contest income withholding initiated under this section by submitting to the agency a written request for administrative review within 15 days after mailing of the notice under (c) of this section. The sole basis for contesting the income withholding is that there is a mistake of fact that makes the income withholding improper for any of the following reasons:

(1) the amount of current or overdue support is incorrect;

(2) the identity of the obligor is inaccurate; or

(3) if income withholding was initiated under (a)(3) or (b)(2) of this section, the alleged facts regarding overdue payments or potential withdrawal of assets are incorrect.

(e) The agency will conduct an administrative review within 15 days after receipt of the request for administrative review. The agency will issue an administrative review decision as soon as practicable after the administrative review is completed. If appropriate, the agency will, in its discretion, request additional information from the obligor or from any other party to the action.

(f) On receipt of the administrative review decision under (e) of this section, the obligor may request a formal hearing. The provisions of 15 AAC 05.010 and 15 AAC 05.025 - 15 AAC 05.040 regarding formal hearings apply to appeals under this subsection.

(g) The agency will, in its discretion, issue an order to withhold and deliver income under AS 25.27.250 at the same time or at any time after service of the notice that income withholding has commenced. The agency will issue the order within two business days after the agency receives information regarding the identity and location of the obligor's employer.

History: Eff. 10/1/98, Register 147

Authority: AS 25.27.020

AS 25.27.062

AS 25.27.080

AS 25.27.150

AS 25.27.250

15 AAC 125.510. Procedures to contest income withholding

(a) Immediately upon issuance of an order to withhold and deliver under 15 AAC 125.500 or 15 AAC 125.505(g), the agency will send a notice by first class mail or by electronic means to the obligor, the custodial parent, and to a child support enforcement

agency of another state, if appropriate, that an order to withhold and deliver has been issued. The notice must inform the parties that the agency has issued an order to withhold and deliver and must describe the procedures that a party shall follow if the party wishes to contest withholding. The notice must also include the information provided to the employer in the order to withhold and deliver.

(b) A party may contest the withholding under the order to withhold and deliver by submitting to the agency a written request for administrative review within 15 days after mailing of the notice under (a) of this section. The request must state the specific reasons for the contest and be accompanied by the documentation upon which the person requesting the review intends to rely. The agency will, in its discretion, reject a request for administrative review if it does not comply with the requirements of this subsection. The sole basis for contesting the withholding under an order to withhold and deliver is that the amount withheld is improper due to a mistake of fact. The agency will issue an administrative review decision as soon as practicable after receiving the request. If appropriate, the agency may request additional information from the obligor or from any other source. An administrative appeal is not available from the administrative review decision issued under this subsection.

(c) The agency will continue to require an employer to withhold income under the order to withhold and deliver even if a party contests the withholding under (b) of this section. The agency may not stay the withholding for collection of arrears unless the obligor posts with the agency security or a bond sufficient to secure payment of past support conditioned upon final determination of the contest. The agency will continue to collect and disburse the ongoing support obligation regardless of posting of a bond or security under this subsection.

History: Eff. 10/1/98, Register 147

Authority: AS 25.27.020
AS 25.27.140
AS 25.27.250

15 AAC 125.515. Administrative exemption from immediate income withholding

An obligor may request an exemption from immediate income withholding under AS 25.27.062(m)(1) when the agency is enforcing the obligor's support order. To obtain the exemption described in this section, the obligor shall submit a written request to the agency. In order to qualify for the exemption, the obligor

(1) shall agree to inform the agency of

(A) the obligor's current employer; and

(B) the availability of employment-related health insurance coverage for the children;
and

(2) shall establish:

(A) that

(i) the agency or a court has reviewed and approved a written agreement between both parents and, if support is assigned to the state, the agency; the agreement must provide an alternative arrangement for immediate income withholding; and

(ii) withholding has not been terminated previously and subsequently been re-initiated; or

(B) that there is good cause not to require immediate income withholding because it would not be in the best interests of the child or children for whom support is sought and, if the matter involves the modification of a support order, the obligor has made voluntary support payments under a court or administrative order and has not been in arrears in an amount that is at least equal to the support payable for one month; in this subparagraph, "in arrears" means failing to make a support payment within 30 days of the monthly due date specified in the support order.

History: Eff. 10/1/98, Register 147

Authority: AS 25.27.020
AS 25.27.062

15 AAC 125.520. Use of standard notices and forms

The agency will use the standard federal notices and forms promulgated under 42 U.S.C. 652(a)(11) and 42 U.S.C. 666(b)(6)(A)(ii) for its orders to withhold and deliver income. The standard federal form for withholding income is considered an order to withhold and deliver under AS 25.27.250 regardless of the title of the document.

History: Eff. 10/1/98, Register 147

Authority: AS 25.27.020
AS 25.27.062
AS 25.27.250

15 AAC 125.525. Income withholding; employer's transmittal of money

(a) An employer who is served by the agency with an income withholding order or an order to withhold and deliver under AS 25.27.062, AS 25.27.250, or 15 AAC 125.500

or 15 AAC 125.505 shall send the amount ordered to be withheld to the agency within seven business days after the date the amount would have been paid or credited to the employee.

(b) When an employer is required to withhold and deliver payments for more than one employee, the employer may combine all withheld amounts into a single payment to the agency. If a single payment is made as permitted in this subsection, the employer shall separately designate the portion of the single payment that is attributable to each employee for whom money is withheld and delivered.

History: Eff. 10/1/98, Register 147

Authority: AS 25.27.020
AS 25.27.062
AS 25.27.250

15 AAC 125.530. Notice to employer of income withholding

The provisions of AS 25.27.062(e) - (k) apply to an income withholding order based on a support order of another jurisdiction under AS 25.25.507, 25.25.603, or 15 AAC 125.700, an administrative establishment of support obligation under AS 25.27.160 - 25.27.220, and an administratively enforced support order under AS 25.27.250.

History: Eff. 10/1/98, Register 147

Authority: AS 25.25.507
AS 25.25.603
AS 25.27.020
AS 25.27.022
AS 25.27.062
AS 25.27.160 -
25.27.220
AS 25.27.250

15 AAC 125.540. Calculation of monthly income withholding amount

(a) In determining the amount of a withholding order issued under AS 25.27.062 or AS 25.27.250, the agency will calculate the monthly withholding amount by adding the following amounts:

- (1) the monthly ongoing support obligation;
- (2) the monthly interest charge; and

(3) a monthly amount to be collected and applied to arrears, as determined using the applicable arrears amortization chart set out in 15 AAC 125.545.

(b) In calculating the amount to be withheld and delivered, the agency will give credit to the obligor for one-half of the cost to the obligor of medical and dental insurance premiums for the children and educational payments for the children to the extent that the health insurance coverage and educational payments are required by the applicable support order and are actually paid for by the obligor, unless the order provides for a different allocation of these costs.

(c) Unless state or federal law requires a lesser percentage, an order to withhold and deliver issued by the agency under AS 25.27.062 or AS 25.27.250 may not exceed 40 percent of an obligor's net disposable earnings, as defined in 15 U.S.C. 1672, unless the agency determines that there is good cause to increase the withholding amount. However, the withholding order may not exceed the percentages allowed under 15 U.S.C. 1673(b).

(d) In determining whether good cause exists to increase the withholding amount under (c) of this section, the agency will consider the following factors:

(1) the amount of the arrears owed by the obligor;

(2) the obligor's payment history, including the number of payments received in the past 12 months;

(3) whether payments have been received from the state for unemployment compensation owed to the obligor;

(4) the obligor's income and other assets available to satisfy the support obligation;

(5) whether the obligor has been eligible and has applied for a permanent fund dividend under AS 43.23;

(6) the existence of a pending court or administrative action that could significantly affect the amount of the arrears;

(7) evidence of bad faith or intentional evasion of the obligor's support obligation, such as evidence of fraudulent transfers or intentional concealment of assets or income;

(8) whether the obligor is seasonally employed;

(9) whether the monthly support amount includes spousal support;

(10) whether the monthly support obligation can be satisfied by withholding only 40 percent of the obligor's net disposable earnings;

(11) any other evidence that would tend to show the ability or willingness of the obligor to pay support voluntarily.

(e) The agency will find that good cause exists to increase the withholding amount under (c) of this section from 40 percent to 50 percent of the obligor's net disposable earnings if

(1) the obligor is ordered to provide health care coverage for a child;

(2) the health care coverage is enforced through a notice in the form required under 45 C.F.R. 303.32;

(3) the monthly support obligation is reduced by half the cost of the health care coverage; and

(4) the increase in the withholding amount is sufficient to cover the monthly support obligation and the cost of the health care coverage, not including arrears, interest, or fees.

History: Eff. 10/1/98, Register 147; am 6/15/2001, Register 158; am 11/30/2002, Register 164

Authority: AS 25.27.020

AS 25.27.025

AS 25.27.062

AS 25.27.063

AS 25.27.250

AS 25.27.253

15 AAC 125.545. Amortization chart

(a) In determining the monthly withholding amount to be collected and applied to arrears under 15 AAC 125.540(a), the agency will use the following amortization chart if the obligor's annual net income exceeds \$15,449.

MOUNT DUE	PYMT/MO	AMOUNT DUE	PYMT/MO
25 - 399	25	19000 - 19999	355
400 - 499		30 20000 - 20999	365
500 - 599		35 21000 - 21999	375
600 - 699		40 22000 - 22999	385
700 - 799		45 23000 - 23999	395
800 - 899		50 24000 - 24999	405
900 - 999		55 25000 - 25999	415
1000 - 1099		60 26000 - 26999	425
1100 - 1199		65 27000 - 27999	435
1200 - 1299		70 28000 - 28999	445
1300 - 1399		75 29000 - 29999	455
1400 - 1499		80 30000 - 30999	465
1500 - 1599		85 31000 - 31999	475
1600 - 1699		90 32000 - 32999	485
1700 - 1799		95 33000 - 33999	495
1800 - 1899		100 34000 - 34999	505
1900 - 1999		105 35000 - 35999	515

2000 - 2249	115	36000 - 36999	525
2250 - 2499	125	37000 - 37999	535
2500 - 2749	135	38000 - 38999	545
2750 - 2999	145	39000 - 39999	555
3000 - 3249	155	40000 - 40999	565
3250 - 3499	165	41000 - 41999	575
3500 - 3749	175	42000 - 42999	585
3750 - 3999	185	43000 - 43999	595
4000 - 4499	195	44000 - 44999	605
4500 - 4999	205	45000 - 45999	615
5000 - 5999	215	46000 - 46999	625
6000 - 6999	225	47000 - 47999	635
7000 - 7999	235	48000 - 48999	645
8000 - 8999	245	49000 - 49999	655
9000 - 9999	255	50000 - 50999	665
10000 - 10999	265	51000 - 51999	675
11000 - 11999	275	52000 - 52999	685
12000 - 12999	285	53000 - 53999	695
13000 - 13999	295	54000 - 54999	705
14000 - 14999	305	55000 - 55999	715
15000 - 15999	315	56000 - 56999	725
16000 - 16999	325	57000 - 57999	735
17000 - 17999	335	58000 - 58999	745
18000 - 18999	345	59000 - 59999	755

0000 - 60999	765	104000 - 104999	1205
61000 - 61999	775	105000 - 105999	1215
62000 - 62999	785	106000 - 106999	1225
63000 - 63999	795	107000 - 107999	1235
64000 - 64999	805	108000 - 108999	1245
65000 - 65999	815	109000 - 109999	1255
66000 - 66999	825	110000 - 110999	1265
67000 - 67999	835	111000 - 111999	1275
68000 - 68999	845	112000 - 112999	1285
69000 - 69999	855	113000 - 113999	1295
70000 - 70999	865	114000 - 114999	1305
71000 - 71999	875	115000 - 115999	1315
72000 - 72999	885	116000 - 116999	1325
73000 - 73999	895	117000 - 117999	1335
74000 - 74999	905	118000 - 118999	1345
75000 - 75999	915	119000 - 119999	1355
76000 - 76999	925	120000 - 120999	1365
77000 - 77999	935	121000 - 121999	1375
78000 - 78999	945	122000 - 122999	1385
79000 - 79999	955	123000 - 123999	1395
80000 - 80999	965	124000 - 124999	1405
81000 - 81999	975	125000 - 125999	1415
82000 - 82999	985	126000 - 126999	1425
83000 - 83999	995	127000 - 127999	1435
84000 - 84999	1005	128000 - 128999	1445
85000 - 85999	1015	128000 - 128999	1455
86000 - 86999	1025	130000 - 130999	1465
87000 - 87999	1035	131000 - 131999	1475
88000 - 88999	1045	132000 - 132999	1485
89000 - 89999	1055	133000 - 133999	1495
90000 - 90999	1065	134000 - 134999	1505
91000 - 91999	1075	135000 - 135999	1515
92000 - 92999	1085	136000 - 136999	1525
93000 - 93999	1095	137000 - 137999	1535
94000 - 94999	1105	138000 - 138999	1545
95000 - 95999	1115	139000 - 139999	1555
96000 - 96999	1125	140000 - 140999	1565
97000 - 97999	1135	141000 - 141999	1575
98000 - 98999	1145	142000 - 142999	1585
99000 - 99999	1155	143000 - 143999	1595
100000 - 100999	1165	144000 - 144999	1605

101000 - 101999	1175	145000 - 145999	1615
102000 - 102999	1185	146000 - 146999	1625
103000 - 103999	1195	147000 - 147999	1635

(b) If the agency uses the amortization chart under (a) of this section and the amount owed by the obligor exceeds \$147,999, the agency will collect and apply to arrears an amount per month equal to \$1,645 plus \$10 for each \$1,000 owed in excess of \$147,999.

(c) In determining the monthly withholding amount to be collected and applied to arrears under 15 AAC 125.540(a), the agency will use the following amortization chart if the obligor's annual net income is greater than \$10,320 but less than or equal to \$15,449.

MOUNT DUE	PYMT/MO	AMOUNT DUE	PYMT/MO
0 - 5,000	20	17,501 - 20,000	50
5,001 - 7,500	25	20,001 - 22,500	55
7,501 - 10,000	30	22,501 - 25,000	60
10,001 - 12,500	35	25,001 - 30,000	65
12,501 - 15,000	40	30,001 - 32,500	70
15,001 - 17,500	45	32,501 and greater	75

(d) In determining the monthly withholding amount to be collected and applied to arrears under 15 AAC 125.540(a), the agency will use the following amortization chart if the obligor's annual net income is less than or equal to \$10,320.

AMOUNT DUE	PYMNT/ MO
0 - 5,000	10
5,001 - 10,000	15
10,001 - 12,500	20
12,501 - 15,000	25
15,001 - 15,500	30
15,501 and greater	40

History: Eff. 10/1/98, Register 147; am 6/15/2001, Register 158

Authority: AS 25.27.020
AS 25.27.062
AS 25.27.250

15 AAC 125.550. Modification of income withholding amount based on hardship

(a) At any time after an order to withhold and deliver has been issued, an obligor may request that the order to withhold and deliver be modified based on evidence of hardship on the obligor or the obligor's family. In order to obtain a modification under this section, the obligor shall present clear and convincing evidence of the hardship that would result if the order to withhold and deliver were not modified.

(b) The agency may consider the following factors in determining whether, for purposes of this section, a hardship exists:

(1) significant illness or disability that prevents the obligor from working at any reasonable employment;

(2) exceptional medical expenses that are not reimbursed by insurance, Medicaid, or another government program, or through private litigation;

(3) an accident or other disaster that significantly affects the obligor or an immediate family member of the obligor;

(4) the obligor has physical custody of one or more of the children for whom support is sought under a valid custody order issued by a tribunal of competent jurisdiction; or

(5) the obligor lives a subsistence life style without any local opportunity for employment.

(6) the net monthly income of the obligor's household is 150 percent of the poverty guideline for this state, as set out in the Federal Register by the United States Department of Health and Human Services, and the agency has not determined the obligor to be voluntarily underemployed or unemployed under 15 AAC 125.060.

(c) In order to qualify for a modification based on hardship, the obligor must provide all information required by the agency to verify hardship or, if the information cannot be provided, must explain why the information is not reasonably available. The obligor must disclose the obligor's entire household assets, income, and expenses, including the assets, income, and expenses of each member of the obligor's household.

(d) In deciding whether to grant or deny a request under this section, the agency will consider the extent to which, in the agency's determination, the obligor has eliminated discretionary spending and has disposed of the obligor's non-essential assets. For purposes of making a determination under this subsection,

(1) discretionary spending

(A) includes an expenditure made for recreation, comfort, sport, investment, entertainment, private schools, travel, or rental or recreational property;

(B) does not include an expenditure necessary to feed, house, clothe, or ensure the health of the obligor and the obligor's immediate family members;

(2) the agency will consider each expenditure on a case-by-case basis;

(3) in determining whether the obligor must dispose of an asset under this subsection, the agency will, in its discretion, consider the sentimental value of the asset to the obligor

and will, in its discretion, weigh the sentimental value of the asset to the obligor and the cost to the obligor of selling the asset against the asset's market value.

(e) The agency will grant or deny a modification requested under this section. If the agency grants a modification under this section, the agency

(1) will not reduce the monthly withholding amount calculated under 15 AAC 125.540(a) below the amount of the obligor's ongoing monthly support obligation or to an amount less than \$50 per month, whichever is greater; and

(2) will grant the modification for the duration of the hardship, as determined by the agency, but for no more than two years.

(f) Repealed 6/15/2001.

(g) An obligor may apply to extend a modification granted under this section beyond the period set under (e)(2) of this section. The agency will review an extension request in the manner that the agency reviews an initial request under this section.

(h) In deciding whether to grant or deny a request under this section, the agency will consider the obligor's history of applying for a permanent fund dividend under AS 43.23. The agency will not deny a request under this section solely because an obligor failed to apply for a permanent fund dividend in the past. However, the agency will not grant a request under this section unless the obligor agrees to

(1) apply for permanent fund dividends in the future; or

(2) demonstrate to the agency's satisfaction that the obligor would not be eligible for a permanent fund dividend under AS 43.23 and 15 AAC 23.

(i) An administrative review or administrative appeal is not available from a decision under this section. The decision is final for purposes of appeal to the superior court.

History: Eff. 10/1/98, Register 147; am 6/15/2001, Register 158

Authority: AS 25.27.020
AS 25.27.250

15 AAC 125.560. Modification of income withholding amount for reasons other than hardship

(a) At any time after the agency has issued an order to withhold and deliver, the agency will, in its discretion or at the request of a party or a child support enforcement agency of another state, review the order to determine whether the amount of the withholding should be modified to bring it into compliance with 15 AAC 125.540 and

any other state or federal guidelines governing orders to withhold and deliver. Hardship is not a basis for review and modification under this section. The agency will, in its discretion, modify the amount of withholding under this section if any of the following events has occurred since the order to withhold and deliver was issued:

- (1) the ongoing support obligation has been modified or terminated;
- (2) a judgment for medical support or unreimbursed medical expenses has been entered;
- (3) the support obligation has been adjusted as the result of an audit or other action by the agency or by a child support enforcement agency of another state; or
- (4) the amount calculated under 15 AAC 125.540 is at least 30 percent more or at least 30 percent less than the amount that is set out in the existing order to withhold and deliver.

(b) If the agency determines that the amount of the order to withhold and deliver should be modified under (a) of this section, the agency will issue a modified order to withhold and deliver. The agency will serve the modified order to withhold and deliver on the person, political subdivision, or department of the state possessing the income in the manner provided for service of a lien under AS 25.27.240. The agency will send a notice by first class mail or by electronic means to the obligor, the custodial parent, and, if appropriate, a child support agency of another state. The modified withholding amount is effective immediately upon service upon the person possessing the income to be withheld.

(c) Upon receipt of a notice served under (b) of this section, the obligor, the custodial parent, or a child support agency of another state may contest the amount of the modified order. A person seeking to contest the modified order to withhold and deliver shall file a written request for administrative review with the agency within 15 days after mailing of the amended withholding order. The request must state the specific reasons for the contest and be accompanied by all documents upon which the person requesting the review intends to rely. The agency may reject a request for administrative review if it does not comply with the requirements of this subsection. The agency will issue an administrative review decision as soon as practicable after receiving a request for administrative review under this subsection. If appropriate, the agency may request additional information from the person requesting the review or from any other party to the action.

(d) An administrative appeal is not available from the administrative review decision issued under (c) of this section.

History: Eff. 10/1/98, Register 147; am 4/1/2005, Register 173

Authority: AS 25.27.020

AS 25.27.250

15 AAC 125.565. Termination of income withholding

(a) After income withholding has been initiated under 15 AAC 125.500 or 15 AAC 125.505, the agency will terminate income withholding only if at least one of the following conditions is met:

(1) the support obligation, including arrears and any future support obligation, has been fully satisfied; or

(2) the agency obtains proof that an exemption has been granted by court or agency order under AS 25.27.062(m).

(b) An order to withhold and deliver that has been served on a particular employer remains effective until

(1) the support obligation, including arrears and any future support obligation, has been fully satisfied; or

(2) the employer has terminated the obligor's employment and at least three years have elapsed since that termination without reemployment of the obligor.

History: Eff. 10/1/98, Register 147

Authority: AS 25.27.020

AS 25.27.062

AS 25.27.250

15 AAC 125.570. Priorities for withholding for a single order

Except as provided in 15 AAC 125.572, if an employer is required to withhold income from an obligor's income under a single withholding order issued by the agency, the employer shall withhold amounts from the obligor's income in the following order of priority, but not to exceed an amount equal to the percentage of the obligor's disposable earnings set out in 15 AAC 125.540(c) unless the agency has found good cause under 15 AAC 125.540 to increase the percentage amount to be withheld:

(1) first, the monthly child support obligation for the month in which the withholding occurs;

(2) second, the monthly spousal support obligation for the month in which the withholding occurs;

(3) third, the monthly amount necessary to forward to any employment-related group health plan to assure coverage of the children under 15 AAC 125.426;

(4) fourth, an amount to be applied to the past-due child and spousal support obligations owed by the obligor, interest, and fees, as provided in the income withholding order.

History: Eff. 11/30/2002, Register 164

Authority: AS 25.27.020

AS 25.27.060

AS 25.27.062

AS 25.27.063

AS 25.27.250

15 AAC 125.571. Priorities for withholding for multiple orders

(a) Except as provided in 15 AAC 125.572, if an employer receives multiple orders from the agency to withhold income for an employee who is the obligor under the multiple orders but for different obligees, the employer shall withhold from the obligor's income an amount determined by adding together the withholding amounts required by each of the orders, but not to exceed an amount equal to the percentage of the obligor's disposable earnings set out in 15 AAC 125.540(c) unless the agency has found good cause under 15 AAC 125.540 to increase the percentage amount to be withheld. If the amount to be withheld under the multiple orders exceeds the percentage amount required to be withheld by the agency under 15 AAC 125.540, the employer shall withhold and deliver, in the following order of priority:

(1) first, to the agency the amounts required to satisfy the monthly child support and spousal support obligation for the month in which the withholding occurs for each of the support orders subject to withholding;

(2) second, to the appropriate group health plan the amounts necessary to provide coverage for the children as required by each of the support orders subject to withholding for medical coverage; and

(3) third, to the agency the amounts required to satisfy the past-due child and spousal support obligations, interest, and fees, as provided in the income withholding orders.

(b) Except as provided in 15 AAC 125.572, if the orders to withhold and deliver have been issued by two or more tribunals, the employer shall apply the following formula to determine the amounts that the employer shall withhold and deliver under each order:

(1) the employer shall calculate the amount of the employee's total ongoing child support obligation by adding together the ongoing monthly child support amount required by each of the orders;

(2) the employer shall determine the employee's allowable withholding amount; to make the calculation, the employer shall multiply the employee's disposable earnings for the pay period in question by the applicable percentage in 15 AAC 125.540(c) unless the agency has found good cause under 15 AAC 125.540 to increase the amount to be withheld to an amount that exceeds the percentage under 15 AAC 125.540(c);

(3) if the amount of the employee's total ongoing child support obligation, as calculated under (1) of this subsection, is

(A) greater than the employee's allowable withholding amount, as calculated under (2) of this subsection, the employer shall allocate the amount withheld to each order based on the percentage that the employee's ongoing monthly child support amount under each order bears to the amount of the employee's total ongoing child support obligation, and shall deliver to the appropriate tribunal the amount of the allocation; and

(B) less than the employee's allowable withholding amount, as calculated under (2) of this subsection, the employer shall first satisfy the employee's ongoing child support obligation under each order for the month in which the withholding occurs; the employer shall next calculate the employee's total ongoing spousal support obligation by adding together the ongoing monthly spousal support amount required by each of the orders;

(4) if the amount of the employee's total ongoing spousal support obligation, as calculated under (3)(B) of this subsection, is

(A) greater than the remaining allowable withholding amount after satisfaction of child support obligations in accordance with (3)(B) of this subsection, the employer shall allocate the amount withheld to each order based on the percentage that the employee's ongoing monthly spousal support amount under each order bears to the amount of the employee's total ongoing spousal support obligation, and shall deliver to the appropriate tribunal the amount of the allocation; and

(B) less than the remaining allowable withholding amount after satisfaction of child support obligations in accordance with (3)(B) of this subsection, the employer shall first satisfy the employee's ongoing spousal support obligation under each order for the month in which the withholding occurs; the employer shall next calculate the amount necessary to provide medical coverage for the children as required by each of the support orders subject to withholding for medical coverage;

(5) if the medical coverage amount, as calculated under (4)(B) of this subsection, is

(A) less than the remaining allowable withholding amount after satisfaction of spousal support obligations in accordance with (4)(B) of this subsection, the employer

shall withhold and deliver to the appropriate group health plan the medical coverage amount; after satisfaction of the medical coverage amount, the employer shall divide the remaining allowable withholding amount in accordance with (B) of this paragraph; and

(B) greater than the remaining allowable withholding amount after satisfaction of spousal support obligations in accordance with (4)(B) or this subsection, the employer may not withhold for medical coverage; the employer shall divide the remaining allowable withholding amount equally among all orders for payment of arrears, interest, and fees, but not to exceed the total withholding required by each withholding order; the employer will deliver to each tribunal the amount allocated to that tribunal's order under this subparagraph.

History: Eff. 11/30/2002, Register 164

Authority: AS 25.25.502

AS 25.25.503

AS 25.27.020

AS 25.27.062

AS 25.27.063

AS 25.27.250

15 AAC 125.572. Priorities for withholding; exception

(a) A parent may request an exception to the withholding priorities set out in 15 AAC 125.570 and 15 AAC 125.571 in order to give priority to the monthly amount necessary to ensure health care coverage for the children under 15 AAC 125.426. If an exception is granted under this section, an employer shall first withhold from the obligor's income the amount necessary to forward to the employment-related group health plan to ensure coverage of the children under 15 AAC 125.426. After withholding that amount, the employer shall follow the priorities established by 15 AAC 125.570 and 15 AAC 125.571.

(b) A request for an exception under this section must be in writing, state the specific reasons for the request, and be accompanied by the documentation upon which the parent intends to rely. The agency will conduct an administrative review within 20 days after it receives the written request. An administrative appeal is not available from the administrative review decision issued under this subsection, but the decision is final for the purpose of appeal to the superior court.

(c) A request for an exception to the withholding priorities will be granted if the agency determines, based on all of the circumstances and after consultation with both parents, that the exception is in the best interests of the child. As a part of the administrative review, the agency will consider the medical needs of the child, the possibility that health care coverage will be intermittent if an exception is not granted, and any agreement of the parents relating to health care coverage.

(d) If an exception is granted under this section and an employer is required to withhold amounts from the obligor's income, the agency will promptly notify the employer that an exception has been granted and of the new priorities to be followed by the employer with respect to the withholding of income.

History: Eff. 11/30/2002, Register 164

Authority: AS 25.27.020

AS 25.27.060

AS 25.27.062

AS 25.27.063

AS 25.27.250

Article 7

Licensing Actions

Section

- 605. Criteria for licensing actions.
- 610. Criteria for administrative review.
- 615. Definition of "best efforts."
- 620. Negotiated agreement for payment schedule on arrears; modification of agreement.
- 625. Referral of case for modification or default order review.
- 630. Exception based on evidence of unusual hardship.
- 635. Revocation of release of occupational license.
- 636. Revocation of release of driver's license.

15 AAC 125.605. Criteria for licensing actions

(a) The agency will include on the licensing lists required to be compiled under AS 25.27.244(a) and 25.27.246(a) the name of an obligor

(1) for whom

(A) a valid child support order is in effect;

(B) if the list is compiled under AS 25.27.244(a), a payment schedule is in effect; or

(C) if the list is compiled under AS 25.27.246(a), a payment schedule is in effect for which the obligor paid the monthly obligation for at least two years immediately after the schedule was negotiated;

(2) who owes an amount that is more than four times the monthly support obligation under the child support order or payment schedule; and

(3) whose arrears exceed \$1,000.

(b) The agency may not include on the licensing lists required to be compiled under AS 25.27.244(a) and AS 25.27.246(a) the name of an obligor who would otherwise qualify for licensing action under (a) of this section if any of the following conditions is met:

(1) the obligor has an active bankruptcy action pending;

(2) the obligor is currently making payments under an income withholding order issued by the agency or a payment agreement with the agency;

- (3) the obligor is currently receiving unemployment insurance benefits;
- (4) the obligor is deceased; or
- (5) the agency is not enforcing the child support order under which the arrears are owed.

History: Eff. 10/1/98, Register 147; am 4/1/2005, Register 173

Authority: AS 25.27.020
AS 25.27.244
AS 25.27.246

15 AAC 125.610. Criteria for administrative review

(a) Upon receipt of a written request for administrative review under AS 25.27.244(g) or AS 25.27.246(f), the agency will review the obligor's child support file to determine whether the obligor is in substantial compliance with the support order or payment schedule. Based on that review, the agency will issue a written decision that includes a finding of whether the obligor is in substantial compliance with the support order or payment schedule.

(b) If, under (a) of this section, the agency determines that the obligor is not in substantial compliance with a support order or payment schedule, the agency will, in its discretion, consider the following factors to determine whether licensing action against the obligor's occupational license or driver's license is appropriate despite the determination that the obligor is not in substantial compliance with the support order or payment schedule under AS 25.27.244(g) or AS 25.27.246(f):

- (1) the amount of the arrears owed by the obligor;
- (2) whether a tribunal in another state is pursuing enforcement action against the obligor;
- (3) the obligor's payment history, including the number of payments received in the past 12 months;
- (4) whether the obligor has an active bankruptcy action pending;
- (5) whether, under a valid custody order issued by a tribunal of competent jurisdiction, the obligor has physical custody of one or more of the children for whom support is sought;

(6) whether payments have been received from the state for unemployment compensation owed to the obligor;

(7) the obligor's income and other assets available to satisfy the support obligation;

(8) whether the obligor is eligible and has applied for a permanent fund dividend;

(9) the existence of a pending court or administrative action that could significantly affect the amount of the arrears;

(10) evidence of bad faith or intentional evasion of the obligor's support obligation, such as evidence of fraudulent transfers or intentional concealment of assets or income; and

(11) any other evidence that would tend to show the ability or willingness of the obligor to pay support voluntarily without licensing action, including evidence that the obligor has made the obligor's best efforts, as defined in 15 AAC 125.615, to pay the child support arrears.

(c) If, based on its review of the criteria set out in (b) of this section, the agency determines that licensing action is not appropriate because of the particular facts of the matter, the agency will, in its discretion, elect not to pursue further licensing action against the obligor.

History: Eff. 10/1/98, Register 147

Authority: AS 25.27.020

AS 25.27.244

AS 25.27.246

15 AAC 125.615. Definition of "best efforts."

As used in 15 AAC 125.610, the term "best efforts," as applied to the obligor, means that, during the period in which the child support order was in effect, the obligor has taken every reasonable step available to assure that support is paid as required by the support order, including, without limitation,

(1) keeping the agency informed of the obligor's address, employer, and medical coverage;

(2) applying for any benefits, such as a permanent fund dividend, unemployment compensation, or similar state and federal benefits, that could be attached for payment of support;

(3) actively seeking employment and pursuing other sources of income when appropriate; and

(4) eliminating discretionary spending; for purposes of this paragraph, discretionary spending

(A) includes any expenditure made for recreation, comfort, sport, investment, entertainment, private schools, travel, or rental or recreational property; and

(B) does not include any expenditures necessary to feed, house, clothe, or ensure the health of the obligor and the obligor's immediate family members.

History: Eff. 10/1/98, Register 147; am 4/1/2005, Register 173

Authority: AS 25.27.020

AS 25.27.244

AS 25.27.246

15 AAC 125.620. Negotiated agreement for payment schedule on arrears; modification of agreement

(a) In negotiating an agreement for a payment schedule on arrears under AS 25.27.244(g)(1) or 25.27.246(f)(1), the agency will calculate the monthly amount by adding the following amounts:

(1) the monthly ongoing support obligation;

(2) the monthly interest charge; and

(3) a monthly amount to be collected and applied to arrears.

(b) If an obligor has previously entered into an agreement for a payment schedule with the agency under AS 25.27.244(g)(1) or AS 25.27.246(f)(1) and has failed to make the payments required by that agreement, the obligor shall first bring current all payments that are due under the previous agreement before the agency will enter into another agreement for a payment schedule under AS 25.27.244(g)(1) or AS 25.27.246(f)(1).

(c) The agency may not enter into an agreement under AS 25.27.244(g) or AS 25.27.246(f) until the obligor agrees to pay the amount calculated in (a) of this section, subject to the limitations of 15 U.S.C. 1673(b) and 15 AAC 125.540(c). The payments under the agreement must be made pursuant to an income withholding order or an order to withhold and deliver issued by the agency or by a tribunal of another state. The agency will consider the obligor to be in substantial compliance with a payment schedule if payments are received under an income withholding order or an order to withhold and deliver at the percentages stated in 15 U.S.C. 1673(b), or at a lower percentage if adopted

by the agency, even if the payment is less than the amount calculated under (a) of this section.

(d) At the request of the obligor, the agency will, in its discretion, make arrangements with an obligor to issue an order to withhold and deliver if the obligor is self-employed. An order to withhold and deliver issued under this subsection is subject to periodic review to determine whether payments are being made as required. As a part of a periodic review, the agency will, in its discretion, request that the obligor provide business records to establish that the proper amounts are being withheld pursuant to the withholding order. If the agency determines that the obligor has failed to withhold and deliver the proper amounts, the agency may find that the obligor is not in substantial compliance with the payment schedule.

(e) At the request of the obligor or at the agency's discretion, the agency will, in its discretion, modify a payment schedule agreed to under AS 25.27.244(g)(1) or AS 25.27.246(f)(1) if

(1) the ongoing support obligation is modified after the agency has signed an agreement for a payment schedule; or

(2) there is a substantial change in the amount of the arrears so that, applying the amortization chart or formula set out in 15 AAC 125.545, the amount required to be collected each month changes substantially; for purposes of this paragraph, the amount required to be collected changes substantially if the amount changes by at least 30 percent.

(f) If the agency determines that a modification of a payment schedule is appropriate under (e) of this section, the agency will give the obligor written notice of the proposed modification at least 10 days before the effective date of the modification. The agency will send the notice by first class mail or by electronic means to the obligor's last known address on file with the agency.

History: Eff. 10/1/98, Register 147; am 6/15/2001, Register 158; am 4/1/2005, Register 173

Authority: AS 25.27.020
AS 25.27.244
AS 25.27.246

15 AAC 125.625. Referral of case for modification or default order review

At any time during the administrative review process under AS 25.27.244(g) or AS 25.27.246(f), the agency will, in its discretion, at the request of the obligor or at its own discretion, refer a matter to the agency's review and adjustment section for possible modification of the ongoing support obligation or, if appropriate, for a default order

review under AS 25.27.195. If the agency refers a matter under this section for modification or default order review, the agency

(1) may not automatically suspend the licensing action against the obligor;

(2) will, in its discretion, consider the existence of the referral in determining whether licensing action against the obligor is appropriate under the criteria set out in 15 AAC 125.610(b).

History: Eff. 10/1/98, Register 147

Authority: AS 25.27.020
AS 25.27.190
AS 25.27.193
AS 25.27.195
AS 25.27.244
AS 25.27.246

15 AAC 125.630. Exception based on evidence of unusual hardship

(a) At any time during the administrative review process authorized by 15 AAC 125.610, an obligor may request that the payment agreement be modified or that the licensing action against the obligor be suspended based on evidence of an unusual hardship that the licensing action would have on the obligor or on the obligor's family. To obtain an exception that is based on evidence of unusual hardship, the obligor shall present clear and convincing evidence of:

(1) unusual circumstances that prevent the obligor from either complying with the child support order or entering into a payment schedule agreement with the agency for the purpose of coming into compliance with the child support order; and

(2) the unusual hardship that would result if the licensing action continued.

(b) The agency will, consider the following factors in determining whether unusual circumstances exist:

(1) a significant illness or disability that prevents the obligor from working at any reasonable employment;

(2) exceptional medical expenses that are not reimbursed by insurance, Medicaid, or another government program, or through private litigation;

(3) an accident or other disaster that significantly affects the obligor or an immediate family member of the obligor;

(4) the obligor has physical custody of one or more of the children for whom support is sought under a valid custody order issued by a tribunal of competent jurisdiction; or

(5) the obligor lives a subsistence life style without any local opportunity for employment.

(c) In order to qualify for an exception based on evidence of unusual hardship, the obligor shall complete a written request form provided by the agency. The obligor must provide all information requested on that form or explain why the information is not reasonably available. On or attached to the form, the obligor shall disclose the obligor's entire household assets, income, and expenses, including assets, income, and expenses of each member of the obligor's household.

(d) The agency may not grant a request for an exception based on evidence of unusual hardship unless the obligor has eliminated discretionary spending and has disposed of the obligor's non-essential assets. For purposes of making a determination under this subsection,

(1) discretionary spending

(A) includes an expenditure made for recreation, comfort, sport, investment, entertainment, private schools, travel, or rental or recreational property;

(B) does not include an expenditure necessary to feed, house, clothe, or ensure the health of the obligor and the obligor's immediate family members;

(2) the agency will consider each expenditure on a case-by-case basis;

(3) in determining whether the obligor must dispose of a non-essential asset under this subsection, the agency will, in its discretion, consider the sentimental value of the asset to the obligor and will, in its discretion, weigh the sentimental value of the asset to the obligor and the cost to the obligor of selling the asset against the asset's market value.

(e) If, under (d) of this section, the agency grants a request for an exception based on evidence of unusual hardship, the agency will elect to:

(1) suspend the licensing action for a stated period of time; or

(2) modify the monthly payment amount calculated under 15 AAC 125.620(a).

(f) The agency will grant a request for an exception based on evidence of unusual hardship only for a period not to exceed six months.

(g) An administrative review is not available from a decision granting or denying a request for an exception based on evidence of unusual hardship under this section.

History: Eff. 10/1/98, Register 147

Authority: AS 25.27.020

AS 25.27.244

AS 25.27.246

15 AAC 125.635. Revocation of release of occupational license

(a) The agency will immediately revoke a release of license issued under AS 25.27.244(g) if at least one of the following conditions is met:

(1) the release was issued under AS 25.27.244(g)(1) or (4), and the agency subsequently determines that the obligor is no longer in substantial compliance with the obligor's support order or payment schedule;

(2) the release was issued under AS 25.27.244(g)(2) or (3) because the license review process could not be completed within 150 days, and upon subsequent completion of the review process, the agency determines that the obligor is not in substantial compliance with the obligor's support order or payment schedule.

(b) When the agency revokes the release of a license under (a) of this section, the agency will immediately place the obligor on the licensing list maintained under AS 25.27.244(a) if the requirements for placement on the licensing list are otherwise met.

History: Eff. 10/1/98, Register 147; am 4/1/2005, Register 173

Authority: AS 25.27.020

AS 25.27.244

AS 25.27.246

15 AAC 125.636. Revocation of release of driver's license

(a) The agency will immediately revoke a release of license issued under AS 25.27.246(f) if at least one of the following conditions is met:

(1) the release was issued under AS 25.27.246(f)(1) or (4) because the obligor was found by the agency or a court to be in substantial compliance with the obligor's support order and the agency subsequently determines that the obligor is no longer in substantial compliance with the obligor's support order;

(2) the release was issued under AS 25.27.246(f)(1) because the obligor negotiated a payment schedule with the agency and the agency subsequently determines that the obligor is no longer in substantial compliance with the payment schedule;

(3) the release was issued under AS 25.27.246(f)(2) or (3) because the license review process could not be completed within 150 days and, upon subsequent completion of the review process, the agency determines that the obligor is not in substantial compliance with the obligor's support order or payment schedule.

(b) When the agency revokes a release under (a)(1) of this section, the agency will immediately place the obligor on the licensing list maintained under AS 25.27.246(a) if the requirements for placement on the licensing list are otherwise met.

(c) When the agency revokes a release under (a)(2) of this section, the agency will

(1) place the obligor on the licensing list maintained under AS 25.27.246(a) if the obligor made payments in accordance with the payment schedule for at least two years immediately after the payment schedule was negotiated and the requirements for placement on the licensing list are otherwise met; or

(2) send written notice of the revocation to the obligor in accordance with AS 25.27.246(h) if the obligor did not make payments in accordance with the payment schedule for at least two years immediately after the payment schedule was negotiated.

(d) When the agency revokes a release under (a)(3) of this section, the agency will send a written notice of the revocation to the obligor in accordance with AS 25.27.246(h).

(e) An administrative review is not available from a notice of revocation of release under (c)(2) or (d) of this section. An obligor who receives a notice under (c)(2) or (d) of this section may request judicial relief from the notice as provided in AS 25.27.246(i). The agency will not suspend the obligor's driver's license based on the revocation of the release until the time for requesting judicial relief has expired or, if judicial relief has been requested, the court has issued a decision affirming the revocation of the release.

History: Eff. 4/1/2005, Register 173

Authority: AS 25.27.020
AS 25.27.246

Article 8
Arrears Forgiveness Program

Section

- 650. Eligibility to participate in arrears forgiveness program.
- 653. Eligibility based on referral by community-based organization.
- 655. Eligibility based on incarceration.
- 658. Eligibility based on failure to make voluntary payments.
- 660. Application for participation in arrears forgiveness program.
- 663. Referral of case for modification or other review.
- 665. Requirements for forgiveness agreement.
- 668. Calculation of monthly payment amount.
- 670. Alternative payment arrangements.
- 673. Continued enforcement actions and application of payments.
- 675. Certification of state debt.
- 678. Forgiveness of certified state debt upon compliance with forgiveness agreement.
- 680. Notice of noncompliance with forgiveness agreement and opportunity to cure.
- 683. Good cause for failure to comply with forgiveness agreement.
- 685. Termination of parent's participation in the arrears forgiveness program.
- 695. Definitions for 15 AAC 125.650 - 15 AAC 125.695.

15 AAC 125.650. Eligibility to participate in arrears forgiveness program

- (a) A parent is eligible to participate in the arrears forgiveness program if the parent
 - (1) owes a combined total state debt of at least \$1,500 in one or more child support cases;
 - (2) owes
 - (A) an ongoing child support obligation to the custodial parent or the state; or
 - (B) child support arrears to the custodial parent;
 - (3) meets one of the following criteria:
 - (A) is referred to the program by a qualified community-based organization, as provided in 15 AAC 125.653;
 - (B) has been incarcerated for more than one year immediately before the parent's application to participate in the program and has no other means of paying support while incarcerated, as provided in 15 AAC 125.655;

(C) as provided in 15 AAC 125.658, has failed to make voluntary payments for at least 24 consecutive months immediately before the parent's application to participate in the program, and

(i) has not actively avoided paying support during those 24 consecutive months; or

(ii) does not currently have the ability to pay support at the amount previously ordered;

(4) submits an application under 15 AAC 125.660 and complies with all requirements for referral under 15 AAC 125.663;

(5) enters into a forgiveness agreement meeting the requirements of 15 AAC 125.665;

(6) has not been convicted of the crime of criminal nonsupport in this state or any other state; for purposes of this paragraph, notwithstanding the definition of "state" in 15 AAC 125.695, "state" has the meaning given in AS 01.10.060(a); and

(7) has not previously enrolled in the arrears forgiveness program under 15 AAC 125.650 - 15 AAC 125.695 and been disqualified from the program due to failure to comply with a forgiveness agreement unless the agency determines that the parent had good cause for the parent's noncompliance, as provided in 15 AAC 125.683.

(b) Except for the requirements of (a)(2) of this section, a parent's eligibility under (a) of this section is determined as of the date the agency reviews the parent's application for approval under 15 AAC 125.660. If at any time during a parent's participation in the program the parent no longer meets the requirements of (a)(2) of this section, the agency will immediately terminate the parent's participation in the program, as provided in 15 AAC 125.685.

History: Eff. 4/1/2005, Register 173

Authority: AS 25.27.020

15 AAC 125.653. Eligibility based on referral by community-based organization

(a) For the purpose of eligibility under 15 AAC 125.650(a)(3)(A), a community-based organization is a private or nonprofit organization or government agency that operates a program designed to directly or indirectly address personal or economic factors that may reduce a parent's earning potential or ability to pay support.

(b) A community-based organization may refer parents to the arrears forgiveness program under 15 AAC 125.650(a)(3)(A) if the organization or a particular program offered by the organization is qualified by the agency for participation in the arrears forgiveness program. An organization may apply to the agency for qualification by

submitting a written application on a form provided by the agency, together with all documentation requested by the agency. The agency will review the application to determine whether the organization's program is designed to directly or indirectly address personal or economic factors that may reduce a parent's earning potential or ability to pay support and whether a parent's participation in that program is otherwise consistent with the goals of the arrears forgiveness program. The agency will notify the organization in writing, either approving or denying qualification for the program.

(c) In order to refer a parent to the arrears forgiveness program, a community-based organization must certify to the agency that the parent is actively participating in a qualified program offered by the organization. The community-based organization must further agree to

(1) monitor and certify to the agency the parent's progress in and completion of the qualified program;

(2) inform the agency immediately if the parent is no longer participating in the qualified program; and

(3) provide assistance to the agency in obtaining the parent's cooperation and compliance with the requirements of the arrears forgiveness program.

(d) If a parent's participation in a program operated by a community-based organization is terminated by the community-based organization after the parent has been referred by that organization under (c) of this section, the agency may terminate the parent's participation in the arrears forgiveness program as provided in 15 AAC 125.685 unless the agency determines that the parent would have qualified for participation in the arrears forgiveness program under 15 AAC 125.650(a)(3)(B) or (C).

(e) If a parent's participation in a program operated by a community-based organization is terminated because the organization or program was terminated or the parent's participation in that program is otherwise terminated through no fault of the parent, the parent may continue to participate in the arrears forgiveness program if the parent was

(1) referred to and is in compliance with the requirements of a comparable community-based program; or

(2) in compliance with the requirements of the community-based organization or program when it was terminated and a comparable program does not exist to which the parent can be referred.

History: Eff. 4/1/2005, Register 173

Authority: AS 25.27.020

15 AAC 125.655. Eligibility based on incarceration

(a) A parent may qualify for participation in the arrears forgiveness program based on incarceration under 15 AAC 125.650(a)(3)(B) if

(1) the parent was

(A) incarcerated as of the date the parent applied for the arrears forgiveness program and is expected to be released from incarceration within 60 days after the date of application; or

(B) released from incarceration within six months immediately before the date the parent applied for the arrears forgiveness program;

(2) the parent was incarcerated for more than one year without interruption during the parent's most recent incarceration before the date the parent applied for the arrears forgiveness program; and

(3) the parent had no other means of paying support while incarcerated.

History: Eff. 4/1/2005, Register 173

Authority: AS 25.27.020

15 AAC 125.658. Eligibility based on failure to make voluntary payments

(a) For the purpose of determining whether a parent has failed to make voluntary payments under 15 AAC 125.650(a)(3)(C), voluntary payments include

(1) payments by cash, check, money order, or other negotiable instrument submitted directly to the agency by or on behalf of the parent;

(2) payments by a parent's employer through income withholding; and

(3) payments through the garnishment of unemployment benefits.

(b) The agency will consider the following factors when determining whether a parent has actively avoided paying support under 15 AAC 125.650(a)(3)(C):

(1) the parent has changed jobs shortly after a withholding order was served on the parent's employer;

(2) the parent has frequently changed residence or mailing addresses without notifying the agency of the change;

(3) the parent has transferred assets to a family member or friend for less than the fair market value of those assets;

(4) the parent has worked for cash or other forms of unreported income without making support payments;

(5) the parent has purchased high-priced consumer items, such as jewelry, computer or electronic equipment, snow machines, boats, airplanes, all-terrain vehicles, and recreational vehicles, unless those items are essential to the parent's business or production of income;

(6) the parent's lifestyle exceeds the parent's reported income;

(7) the parent is employed by businesses owned by the parent's friends or relatives and for which no or only minimal income is reported;

(8) the parent is not actively seeking employment or pursuing other sources of income that could be used to pay child support;

(9) the parent has not applied for benefits that could be used to pay support, including permanent fund dividends under AS 43.23, unemployment insurance, disability benefits, or other state or federal benefits for which the parent might be eligible;

(10) the parent has intentionally concealed assets or income.

(c) For the purpose of determining eligibility under 15 AAC 125.650(a)(3)(C), a parent does not currently have the ability to pay support as ordered if the parent can show that

(1) the support order includes

(A) pre-order arrears;

(B) arrears that accrued under a default order;

(C) arrears that accrued after the parent failed through excusable neglect to timely request a modification of the support order when a material change of circumstances occurred justifying a reduction in the support obligation; or

(2) the parent's earning ability or ability to pay has been substantially reduced after the issuance of the support order as a result of

(A) a significant illness or disability that prevents the parent from working at any reasonable employment;

(B) exceptional medical expenses that are not reimbursed by insurance, Medicaid, or another government program, or through private litigation;

(C) an accident or other disaster that significantly affects the parent or an immediate family member of the parent; or

(D) the parent living a subsistence lifestyle without any local opportunity for employment.

History: Eff. 4/1/2005, Register 173

Authority: AS 25.27.020

15 AAC 125.660. Application for participation in arrears forgiveness program

(a) In order to be considered for the arrears forgiveness program, a parent must submit a written application to the agency. The application must be on a form prescribed by the agency and must be accompanied by all documentation or other information requested by the agency to support the application.

(b) If a parent fails to submit all of the information needed by the agency to process the application or if the agency determines that the case should be referred for modification or other review under 15 AAC 125.663, the agency will notify the parent that the application is insufficient or that a referral for modification or other review is being made. The agency will identify any additional information that the agency needs in order to review the parent's application or to refer the case for modification or other review. If the parent was referred to the agency by a community-based organization under 15 AAC 125.650(a)(3)(A), the agency will notify the referring organization of the request for additional information and will request the organization's assistance in obtaining the necessary information. If the parent fails to provide the additional information within 30 days after the agency sent its notice and request for additional information, the agency will deny the parent's application based on the failure to provide information.

(c) Upon receipt of all necessary information and after completion of any referral under 15 AAC 125.663, the agency will review a parent's application to determine whether the parent meets the eligibility requirements of 15 AAC 125.650. If the agency determines that the parent

(1) meets the eligibility requirements, the agency will prepare and send to the parent a forgiveness agreement under 15 AAC 125.665; or

(2) does not meet the eligibility requirements, the agency will send the parent a notice of denial.

(d) If a parent's application is denied under (b) or (c) of this section, the parent may contest the denial by submitting to the agency a written request for administrative review within 30 days after the notice was sent to the parent. The request must state the specific reasons for the contest and be accompanied by all documents upon which the person requesting the review intends to rely. The agency may reject a request for administrative review if it does not comply with the requirements set out in this subsection. The administrative review is limited to whether a parent has complied with the application and eligibility requirements for participation in the arrears forgiveness program. As necessary to determine whether a parent is eligible for the arrears forgiveness program, the agency may request additional information from the parents or from any other source. The agency will issue an administrative review decision as soon as practicable after receiving the request. An administrative appeal is not available from the administrative review decision issued under this subsection, but the decision is final for the purpose of appeal to the superior court.

(e) If the agency determines at any time after an application has been approved for participation in the arrears forgiveness program that the parent knowingly provided false or incomplete information with the parent's application, the agency may terminate the parent's participation in the program as provided in 15 AAC 125.685.

History: Eff. 4/1/2005, Register 173

Authority: AS 25.27.020

15 AAC 125.663. Referral of case for modification or other review

(a) Upon receipt of an application under 15 AAC 125.660, the agency will review the case to determine whether

(1) the case may qualify for a modification of the ongoing support obligation;

(2) the parent may be entitled to relief from the support order because the order was based on a default amount; or

(3) there are other defects in the support order or the arrears calculation that should be resolved before the agency considers the parent for the arrears forgiveness program.

(b) If the agency determines that one of the conditions in (a) of this section have been met, the agency will immediately refer the case to the appropriate caseworker within the agency or to the Department of Law for further action to resolve the issue, including referral for

(1) modification review under 15 AAC 125.316;

(2) default order review under 15 AAC 125.121;

(3) relief or reconsideration under 15 AAC 125.125;

(4) genetic testing; or

(5) judicial action to set aside or correct a paternity judgment or support order.

(c) The agency will not determine whether a parent is eligible under 15 AAC 125.660 to participate in the arrears forgiveness program until any referrals under this section have been completed.

History: Eff. 4/1/2005, Register 173

Authority: AS 25.27.020

15 AAC 125.665. Requirements for forgiveness agreement

(a) Upon approval of the parent's application by the agency, the agency will send to the parent a forgiveness agreement. The parent must sign and return the forgiveness agreement to the agency within 30 days after it is mailed to the parent. If the parent fails to sign and return the forgiveness agreement to the agency within the required time, the agency will rescind its approval of the parent's application and will deny the application based on the failure to return the agreement. If a parent's application is denied under this section, the parent may contest the denial as provided in 15 AAC 125.660(d).

(b) As part of a forgiveness agreement under this section, the parent must agree to

(1) make monthly payments, as calculated under 15 AAC 125.668, through income withholding unless the agency agrees under AS 25.27.020(f)(1)(C) and 15 AAC 125.670 to an alternative payment arrangement; monthly payments that are made

(A) through income withholding must begin within 60 days after the parent is approved for the program unless the parent is enrolled in an employment training program in accordance with AS 25.27.020(f)(1)(B), in which case the monthly payments through income withholding must begin within 30 days after the parent completes the employment training program; or

(B) under an alternative payment arrangement must begin within 30 days after the parent is approved for the arrears forgiveness program;

(2) promptly inform the agency of any changes in the parent's employment or income and provide the name and address of any employer for whom the parent works;

(3) promptly inform the agency of any changes in the parent's residence or mailing address;

(4) apply for a permanent fund dividend under AS 43.23 for each year in which the parent is or may be eligible to receive the dividend or provide the agency with information indicating that the parent is not eligible for the dividend; and

(5) if the parent was referred by a community-based organization under 15 AAC 125.650(a)(3)(A), comply with all requirements established by that organization for continuing participation in the organization's program until the parent has successfully completed the organization's program.

(c) As part of a forgiveness agreement under this section, the agency will agree

(1) to forgive the applicable percentage of the certified state debt as provided in 15 AAC 125.678, upon confirmation by the agency that the parent has complied with all requirements of the forgiveness agreement for the relevant reporting period;

(2) to suspend any action under AS 25.27.244 or 25.27.246 against the parent's driver's or occupational licenses as long as the parent remains in compliance with the forgiveness agreement and will release any license that it has already suspended upon receipt of the signed forgiveness agreement and the parent's first payment under that agreement;

(3) except as provided in 15 AAC 125.673, to suspend any enforcement actions to garnish or seize the parent's assets and property as long as the parent remains in compliance with the forgiveness agreement; and

(4) not to pursue any action for criminal nonsupport or civil or criminal contempt against the parent as long as the parent remains in compliance with the forgiveness agreement.

History: Eff. 4/1/2005, Register 173

Authority: AS 25.27.020

15 AAC 125.668. Calculation of monthly payment amount

(a) Unless the agency finds good cause to require a different amount, the agency will calculate the amount of the monthly payment required by the forgiveness agreement by adding the following amounts:

(1) the monthly ongoing support obligation;

(2) the monthly interest charge on any arrears owed to the custodial parent; and

(3) a monthly amount to be collected and applied to any arrears owed to the custodial parent, as determined using the applicable arrears amortization chart set out in 15 AAC 125.545.

(b) In calculating the amount to be paid under the forgiveness agreement, the agency will give credit to the parent for one-half of the cost to the parent of medical and dental insurance premiums for the children and educational payments for the children to the extent that the health insurance coverage and educational payments are required by the applicable support order and are actually paid for by the parent, unless the order provides for a different allocation of these costs.

(c) If payments are made in accordance with an income withholding order under AS 25.27.062 or 25.27.250 but those payments are not sufficient to cover the monthly payment amount set under (a) of this section, the parent must pay the difference between the amount withheld and the monthly payment amount set under (a) of this section by submitting direct payments to the agency in the form of cash, a personal, cashier's, or certified check, a money order, an electronic funds transfer, or payment by wire service.

(d) Good cause for varying the monthly payment amount under (a) of this section will be determined under 15 AAC 125.540(d).

History: Eff. 4/1/2005, Register 173

Authority: AS 25.27.020

15 AAC 125.670. Alternative payment arrangements

(a) Unless the agency has agreed under AS 25.27.020(f)(1)(C) and this section to an alternative payment arrangement, a forgiveness agreement must require the parent to pay in accordance with an income withholding order issued under AS 25.27.062 or 25.27.250 to the parent's employer, insurer, or financial institution, or to a state or federal agency paying periodic benefits to a parent.

(b) An alternative payment arrangement may include

(1) regular electronic fund transfers;

(2) payments by cash, a certified or cashier's check, or a money order;

(3) payments by wire service; and

(4) lump sum payments in advance.

(c) The agency will agree to an alternative payment arrangement if the

(1) parent's employment is seasonal and employment in the parent's off-season is unlikely or is not economically feasible;

(2) parent is self-employed;

(3) parent relies on sources of income that are not subject to garnishment under state or federal law; or

(4) agency determines that an alternative payment arrangement is likely to be as effective as income withholding and is in the best interests of the state and of the children.

History: Eff. 4/1/2005, Register 173

Authority: AS 25.27.020

15 AAC 125.673. Continued enforcement actions and application of payments

(a) While a parent is participating in the arrears forgiveness program, the agency will

(1) report the parent's arrears, including the certified state debt, to the federal government for attachment, to the extent required by federal law, of any refund of amounts withheld under 26 U.S.C. (Internal Revenue Code) for federal income tax;

(2) attach the parent's permanent fund dividend under AS 43.23;

(3) leave in place all liens previously asserted against property belonging to the parent; however, the parent may negotiate with the agency for release of the lien against specific property; and

(4) continue to report all arrears, including any portion of the certified state debt that has not yet been forgiven under 15 AAC 125.678, to credit bureaus as required under 15 AAC 125.418.

(b) The agency will apply amounts collected under (a) of this section as follows:

(1) amounts collected under (a)(1) of this section through attachment of the parent's federal income tax refund will be applied

(A) first to state debt that has accrued after the certification of the state debt under 15 AAC 125.675;

(B) second to the certified state debt; and

(C) third to arrears owed to the custodial parent;

(2) amounts collected through the attachment of the parent's permanent fund dividend under AS 43.23 will be applied

(A) first to arrears owed to the custodial parent;

(B) second to state debt that has accrued after the certification of the state debt under 15 AAC 125.675; and

(C) third to the certified state debt;

(3) amounts collected through negotiation under (a)(3) of this section of a release of a lien against property will be applied

(A) first to arrears owed to the custodial parent;

(B) second to state debt that has accrued after the certification of the state debt under 15 AAC 125.675; and

(C) third to the certified state debt, but only if the property for which the lien was released was not identified by the parent on the parent's application under 15 AAC 125.660 for participation in the arrears forgiveness program.

(c) Amounts collected through continued enforcement under (a) of this section will not be considered monthly payments under the parent's forgiveness agreement. Amounts collected through continued enforcement under (a) of this section are in addition to the monthly payments required by the forgiveness agreement.

History: Eff. 4/1/2005, Register 173

Authority: AS 25.27.020

15 AAC 125.675. Certification of state debt

(a) After the agency has approved a parent for participation in the arrears forgiveness program, the agency will calculate and certify the total state debt owed as of the date the parent was approved for the program. The agency will include in the certified state debt

(1) the principal amount of any arrears that are permanently assigned to the state as of the date the parent was approved for the program; and

(2) any interest that has accrued on the permanently assigned arrears as of the date the parent was approved for the program.

(b) The agency will prepare a written certification stating the amount of the certified state debt subject to forgiveness. The agency will send the parent a copy of the certification with the forgiveness agreement under 15 AAC 125.665.

History: Eff. 4/1/2005, Register 173

Authority: AS 25.27.020

15 AAC 125.678. Forgiveness of certified state debt upon compliance with forgiveness agreement

(a) The agency will monitor the parent's compliance with the forgiveness agreement on a monthly basis and will notify the parent of any noncompliance as provided in 15 AAC 125.680. However, the agency will forgive certified state debt on a yearly basis. The first yearly reporting period commences as of the date the parent was approved for participation in the arrears forgiveness program. Each subsequent yearly reporting period commences on the anniversary of the date the parent was approved for participation in the arrears forgiveness program.

(b) The agency will forgive a portion of the certified state debt at the conclusion of each yearly reporting period at the following rates:

(1) for the first year: 10 percent of the certified state debt, plus the waiver of all interest that accrued on the certified state debt during the first yearly reporting period;

(2) for the second year: 15 percent of the certified state debt, plus the waiver of all interest that accrued on the certified state debt during the second yearly reporting period;

(3) for the third year: 15 percent of the certified state debt, plus the waiver of all interest that accrued on the certified state debt during the third yearly reporting period;

(4) for the fourth year: 20 percent of the certified state debt, plus the waiver of all interest that accrued on the certified state debt during the fourth yearly reporting period;

(5) for the fifth year: 20 percent of the certified state debt, plus the waiver of all interest that accrued on the certified state debt during the fifth yearly reporting period;

(6) for the sixth year: 20 percent of the certified state debt, plus the waiver of all interest that accrued on the certified state debt during the sixth yearly reporting period.

(c) When determining the amount of the certified state debt subject to forgiveness each yearly reporting period, the agency will first apply any payments received from continued enforcement actions, as provided in 15 AAC 125.673. Only the applicable percentage of the certified state debt, after deducting payments under 15 AAC 125.673, will be forgiven. The agency will not forgive an amount that, after the application of any

payments under 15 AAC 125.673, results in an overpayment or otherwise reduce the balance owed by the parent below zero.

(d) If a parent's participation in the program is terminated in the middle of a yearly reporting period because the parent no longer meets the requirements of 15 AAC 125.650(a)(2), the agency will forgive a prorated percentage of the certified state debt based on the percentage of the year during which the parent fully complied with the forgiveness agreement. If the parent's participation in the program is terminated in the middle of a yearly reporting period for any reason other than failure to meet the requirements of 15 AAC 125.650(a)(2), the agency will not forgive any percentage of the certified state debt for that yearly reporting period.

History: Eff. 4/1/2005, Register 173

Authority: AS 25.27.020

15 AAC 125.680. Notice of noncompliance with forgiveness agreement and opportunity to cure

(a) If a parent fails to make two payments within a yearly reporting period, the agency will promptly notify the parent after the second missed payment that the parent is in default and that if the parent misses one more payment during the yearly reporting period, the parent's participation in the arrears forgiveness program will be terminated.

(b) If a parent fails to comply with a nonmonetary requirement of the forgiveness agreement, the agency will notify the parent of the noncompliance and will give the parent 30 days after the date the notification is sent in which to cure the noncompliance or to show good cause for the noncompliance. If the parent fails to cure the noncompliance by the end of the 30 days, the agency will terminate the parent's participation in the program as of the date of the termination notice.

History: Eff. 4/1/2005, Register 173

Authority: AS 25.27.020

15 AAC 125.683. Good cause for failure to comply with forgiveness agreement

(a) A parent may establish good cause for failure to make payments or comply with other requirements of a forgiveness agreement by presenting clear and convincing evidence that the parent was unable to make the payment or comply with other requirements of the agreement as a result of substantial hardship or other unusual circumstances. The agency will consider the following factors in determining whether a parent has established good cause for failing to make payments under a forgiveness agreement:

(1) a significant illness or disability prevents the parent from working at any reasonable employment;

(2) the parent has incurred exceptional medical expenses that are not reimbursed by insurance, Medicaid, or another government program, or through private litigation;

(3) an accident or other disaster significantly affects the parent or an immediate family member of the parent;

(4) the parent has physical custody of one or more of the children for whom support is sought under a valid custody order issued by a tribunal of competent jurisdiction;

(5) the parent lives a subsistence lifestyle without any local opportunity for employment;

(6) the net monthly income of the parent's household is below the poverty guideline for this state, as set out in the Federal Register by the United States Department of Health and Human Services, and the agency has not determined the parent to be voluntarily underemployed or unemployed under 15 AAC 125.060.

(b) A request for a good cause determination under (a) of this section must be submitted in writing on a form prescribed by the agency and must be accompanied by all documentation required by the agency and any other documentation on which the parent intends to rely to support the request. As necessary to determine whether a good cause determination is appropriate, the agency may request additional information from the parents or from any other source. The agency will issue an administrative review decision granting or denying the request for a good cause determination as soon as practicable. An administrative appeal is not available from the administrative review decision, but the decision is final for the purpose of appeal to the superior court.

(c) In deciding whether to find good cause for a parent's failure to comply with a forgiveness agreement, the agency will consider the extent to which the parent has eliminated discretionary spending and has disposed of the parent's non-essential assets. For purposes of making a determination under this subsection,

(1) discretionary spending

(A) includes an expenditure made for recreation, comfort, sport, investment, entertainment, private schools, travel, or rental or recreational property; and

(B) does not include an expenditure necessary to feed, house, clothe, or ensure the health of the parent and the parent's immediate family members;

(2) the agency will consider each expenditure on a case-by-case basis; and

(3) in determining whether the parent must dispose of an asset under this subsection, the agency may consider the sentimental value of the asset to the parent and may weigh the sentimental value of the asset to the parent and the cost to the parent of selling the asset against the asset's market value.

(d) If the agency determines that good cause exists for a parent's failure to comply with a forgiveness agreement, the agency will, as appropriate, determine the likely duration of the hardship or other unusual circumstances that form the basis for the good cause finding. The agency may grant a good cause exception under this section only for the duration of the hardship or other unusual circumstances that form the basis for the good cause finding, but in any event for no more than six months. A parent may apply to extend a good cause exception granted under this section beyond the period originally set. The agency will review an extension request in the same manner that the agency reviews an initial request under this section.

History: Eff. 4/1/2005, Register 173

Authority: AS 25.27.020

15 AAC 125.685. Termination of parent's participation in the arrears forgiveness program

(a) The agency will terminate a parent's participation in the arrears forgiveness program if the agency determines that the parent

(1) has failed to make more than two payments required by the forgiveness agreement within the yearly reporting period without good cause;

(2) has failed without good cause to comply with other requirements of the forgiveness agreement and the noncompliance has substantially prejudiced the agency's ability to collect support from the parent;

(3) no longer owes

(A) an ongoing child support obligation to the custodial parent or the state; or

(B) child support arrears to the custodial parent; or

(4) knowingly provided false or incomplete information on the parent's application, and the agency would not have approved the parent's application if the agency had received the correct or complete information at the time of the application.

(b) If the agency determines that termination is appropriate under (a) of this section, the agency will send a written notice of termination to the parent. The parent may contest the termination by submitting to the agency a written request for administrative review

within 30 days after the notice was sent to the parent. The request must state the specific reasons for the contest and be accompanied by all documents upon which the person requesting the review intends to rely. The agency may reject a request for administrative review if it does not comply with the requirements set out in this subsection. The administrative review is limited to whether

(1) the parent has complied with the forgiveness agreement;

(2) good cause existed for the parent's noncompliance, as provided in 15 AAC 125.683;

(3) the parent continues to owe an ongoing support obligation or child support arrears as required under 15 AAC 125.650(a)(2); and

(4) the parent knowingly provided false or incomplete information with the parent's application for participation in the program and whether receipt of correct or complete information would have affected the parent's eligibility for the program.

(c) The agency will issue an administrative review decision as soon as practicable after receiving a request under (b) of this section. As necessary to determine whether termination is appropriate, the agency may request additional information from the parents or from any other source. An administrative appeal is not available from the administrative review decision issued under this subsection, but the decision is final for the purpose of appeal to the superior court.

History: Eff. 4/1/2005, Register 173

Authority: AS 25.27.020

15 AAC 125.695. Definitions for 15 AAC 125.650 - 15 AAC 125.695

In 15 AAC 125.650 - 15 AAC 125.695, unless the context requires otherwise,

(1) "arrear forgiveness program" means the program established under AS 25.27.020(f) - (h) and 15 AAC 125.650 - 15 AAC 125.695;

(2) "child support arrears" means a debt for support that is owed and past due under a support order for the support and maintenance of a child or a parent of a child for whom the agency is also collecting support; "child support arrears" includes

(A) monetary support;

(B) payment of health care costs or maintenance of health insurance;

(C) reimbursement of related costs;

(D) payment of attorney fees and legal costs and other fees; and

(E) any penalty, interest, and other relief as required by the support order;

(3) "incarceration" includes placement in a state or federal correctional facility, jail, halfway house, or work-release program;

(4) "other means of paying support" includes

(A) receipt of state or federal benefits, including social security, disability, retirement, and veteran's benefits;

(B) rental income from property and other assets;

(C) income from trusts, pensions, insurance policies, and litigation;

(D) income from interests in partnerships and other business entities;

(E) income from self-employment and other business activities;

(F) lottery winnings; and

(G) dividends from corporations, including dividends from corporations organized under 43 U.S.C. 1601 - 1629h (Alaska Native Claims Settlement Act);

(5) "state" means this state or any other state that has requested and been granted approval by the agency to participate in the arrears forgiveness program;

(6) "state debt" means child support arrears that are owed a state for reimbursement of public assistance or state-sponsored placement of the parent's children.

History: Eff. 4/1/2005, Register 173

Authority: AS 25.27.020

Article 9

Administrative Actions Under the Uniform Interstate Family Support Act

Section

- 700. Administrative enforcement of support order or income withholding order issued in another state.
- 705. Registration of support order or income withholding order issued in another state.
- 710. Contesting registration of support order or income withholding order issued in another state.
- 712. Controlling order determinations.
- 715. Temporary support orders.
- 720. Procedures for certain administrative actions involving support orders and paternity matters under AS 25.25
- 725. (Repealed).
- 730. Modification if no party resides in this state.
- 735. Notice of modified support order.
- 740. Use of standard forms.
- 745. Arrears reconciliation.

15 AAC 125.700. Administrative enforcement of support order or income withholding order issued in another state

(a) If the agency receives a request to enforce a support order or an income withholding order, or both, issued in another state, and if the request includes the documentation specified in AS 25.25.602(a), the agency will first consider and, if appropriate, initiate administrative enforcement, including income withholding, under AS 25.27.150 and AS 25.27.230 - 25.27.270 without first registering the support order or income withholding order.

(b) If the documentation received by the agency under (a) of this section does not conform to the requirements of AS 25.25.602(a), the agency will remedy any defect that it can without the assistance of the requestor. If the agency is unable to remedy a defect, the agency will immediately notify the requestor of the necessary additions or corrections required to enforce the order or orders.

(c) If the obligor contests the validity of or the administrative enforcement of the support order or income withholding order, or both, the agency will register the support order or income withholding order, or both, with the appropriate registering tribunal in accordance with AS 25.25.601 - 25.25.610. Unless the obligor requests and obtains from the agency or court a stay of enforcement, the agency will continue to enforce the support order or income withholding order against income in this state, pending the outcome of the registration process.

History: Eff. 10/1/98, Register 147

Authority: AS 25.25.507
AS 25.27.020(a)

15 AAC 125.705. Registration of support order or income withholding order issued in another state

(a) A support order or income withholding order issued by an administrative agency or by a quasi-judicial entity of another state may be registered with the agency for enforcement or for modification in accordance with AS 25.25.601 - 25.25.610.

(b) A support order or income withholding order issued by a court of another state may be registered with the agency for enforcement only, in accordance with AS 25.25.601 - 25.25.608.

History: Eff. 10/1/98, Register 147

Authority: AS 25.25.601
AS 25.27.020(a)

15 AAC 125.710. Contesting registration of support order or income withholding order issued in another state

(a) A nonregistering party may contest under AS 25.25.606 the validity or enforcement of a support order or income withholding order issued in another state and registered with the agency. To contest the order, the party shall submit to the agency a written request for administrative review within 20 days after the date of mailing of the notice of registration. The request for administrative review must include a statement of the defenses specified in AS 25.25.607(a) upon which the contesting party intends to rely, together with any documentation supporting the defense.

(b) Upon receipt of a request that meets the requirements of (a) of this section, the agency will send a notice of administrative review by first class mail to the nonregistering party, to the registering party, and to the initiating tribunal, and, if appropriate, to the person on whose behalf the initiating tribunal has sought registration. A nonrequesting party may respond in writing to the arguments asserted by the requesting party. A nonrequesting party shall respond within 15 days after notice of the request for administrative review is mailed to the nonrequesting party.

(c) The agency will transmit with the notice of administrative review that is sent under (b) of this section copies of

(1) the request for administrative review; and

(2) the supporting documentation that was provided by the nonregistering party under (a) of this section.

(d) The agency will issue an administrative review decision as soon as practicable after receipt of the responses from the nonrequesting parties or upon the expiration of the time for providing responses under (b) of this section. The administrative review decision is final for purposes of appeal to a formal hearing but is not a final administrative determination for purposes of appeal to the superior court.

(e) The provisions of 15 AAC 125.118(c) - (f) regarding administrative reviews apply to proceedings under this section to the extent that those provisions are not inconsistent with a provision of AS 25.25.605 - 25.25.607 or this section. The provisions of 15 AAC 05.010 and 15 AAC 05.025 - 15 AAC 05.040 regarding formal hearings apply to appeals under this section.

History: Eff. 10/1/98, Register 147

Authority: AS 25.25.605

AS 25.25.606

AS 25.27.020(a)

15 AAC 125.712. Controlling order determinations

(a) If more than one support order is in effect for the same parents and children, the agency will issue a controlling order determination under AS 25.25.207.

(b) Upon issuance of a controlling order determination, the agency will send a notice of the determination to each parent, to the initiating tribunal, if appropriate, and to the person on whose behalf the initiating tribunal has sought enforcement, if appropriate. A party may contest the determination by requesting an administrative review within 30 days after the party receives the notice under this subsection. A request for administrative review must include an explanation for the party's objection to the determination, a copy of any orders that the party believes should be considered, and any other documentation upon which the requesting party intends to rely.

(c) Upon receipt of a request for administrative review under (b) of this section, the agency will send a notice of administrative review to the nonrequesting party, the initiating tribunal, if appropriate, and to the person on whose behalf the initiating tribunal has sought enforcement, if appropriate, together with a copy of the request for administrative review and any supporting documentation provided by the requesting party. A nonrequesting party must respond in writing within 15 days after notice of the request for administrative review is mailed to the nonrequesting party.

(d) The agency will issue an administrative review decision as soon as practicable after receipt of the responses from the nonrequesting parties or upon the expiration of the time for providing responses under (c) of this section. An administrative appeal is not available from an administrative review decision issued under this subsection, but the decision is final for the purpose of appeal to the superior court.

(e) Absent unusual circumstances, a controlling order determination under this section is effective as of the first day of the

(1) month after the notice was mailed under (b) of this section if the notice was mailed on or before the 15th day of the month; or

(2) second month after the notice was sent under (b) of this section if the notice was mailed after the 15th day of the month.

(f) When the controlling order determination becomes effective under (e) of this section, the agency will file with each court and child support agency that issued or registered a child support order for the parents and children

(1) a certified copy of the controlling order determination;

(2) a notice of the controlling order determination on a standard form promulgated under 42 U.S.C. 652(a)(11);

(3) a certified copy of the new controlling order, if appropriate;

(4) a copy of the arrears reconciliation prepared under 15 AAC 125.745.

History: Eff. 11/30/2002, Register 164

Authority: AS 25.25.207

AS 25.25.209

AS 25.27.020

15 AAC 125.715. Temporary support orders

(a) The agency will, in its discretion, issue a temporary support order at any time after the initiation of administrative action to establish a support obligation under AS 25.25.401 if any of the conditions in AS 25.25.401(b) has been met.

(b) Before issuing a temporary support order, the agency will serve the parties with a notice of intent to issue a temporary support order. The agency will serve the notice personally or by registered, certified, or insured mail, return receipt requested, for restricted delivery only to the person to whom the notice is directed or to the person authorized under federal law to receive that person's restricted delivery mail. The notice

will include a notice of right to administrative review and a request for financial and medical information under 15 AAC 125.040.

(c) A party may object to the issuance of a temporary support order by submitting to the agency a request for administrative review within 10 days after service of the notice of intent to issue a temporary support order under (b) of this section. A request for administrative review must state with particularity the grounds for the request and must be accompanied by documentation supporting the request. Regardless of whether a party makes a request for administrative review, the parties shall submit financial information to the agency within 10 days after service of the notice of intent to issue a temporary support order if the information has not already been provided to the agency.

(d) If a party does not submit a request for administrative review within the time provided in (c) of this section, the agency will, in its discretion, issue a temporary support order effective immediately following the expiration of the 10-day period provided in (c) of this section.

(e) If a party submits a request for administrative review within the time provided in (c) of this section, the agency will send a notice of the administrative review to both parties by first class mail. Either party may submit written documentation to be considered by the agency during the administrative review. A party shall submit the written documentation within 10 days after the agency mails the notice of the administrative review to the parties.

(f) If, upon completion of the administrative review, the agency issues a temporary support order, the order is effective and enforceable immediately upon issuance. The administrative review decision is the agency's final administrative decision for purposes of further appeal. Either party may appeal the administrative review decision to the superior court, as provided in AS 25.27.210 - 25.27.220.

(g) The provisions of 15 AAC 125.118(c) - (f) regarding administrative reviews apply to proceedings under this section to the extent that those provisions are not inconsistent with a provision of AS 25.25.401 or this section.

(h) The agency will base its determination of the amount of support under a temporary support order on any financial information readily available to the agency at the time the order is issued, including any information provided by the parties or available through government agencies. However, if financial information is not readily available to the agency at the time the order is issued, the agency will base the amount of support under the temporary support order on the Male and Female Average Annual Wage Income by Age Group statistics, provided by the Alaska Department of Labor and Workforce Development, that are most current at the time of calculation of the support obligation and that are most comparable to the sex and age of the obligor, or on other information appropriate in a particular case.

History: Eff. 10/1/98, Register 147

Authority: AS 25.25.401
AS 25.27.020(a)
AS 25.27.140

Editor's note: As of Register 151 (October 1999), the regulations attorney made technical revisions under AS 44.62.125(b)(6) to reflect the name change of the Department of Labor to the Department of Labor and Workforce Development made by ch. 58, SLA 1999 and the corresponding title change of the commissioner of labor.

15 AAC 125.720. Procedures for certain administrative actions involving support orders and paternity matters under AS 25.25

(a) Establishment of a support order by the agency under AS 25.25.401 is governed by the provisions of AS 25.25, AS 25.27, and this chapter that are applicable to the agency's administrative establishment of a support obligation.

(b) If a support order issued in another state is registered with the agency for modification under AS 25.25.609 and 25.25.610 and if modification is permitted under AS 25.25.611 or AS 25.25.613, modification of that support order is governed by the administrative procedures set out in AS 25.27.190 and by the provisions of this chapter that relate to administrative modification of a support order.

(c) Proceedings under AS 25.25.701 for agency establishment or disestablishment of paternity are governed by the provisions of AS 25.25, AS 25.27, and this chapter regarding the proceedings. However, the agency may serve as a tribunal in a proceeding under AS 25.25.701 to determine the parentage of a child only if the parentage of the child has not been previously determined.

(d) For purposes of (c) of this section, the parentage of a child has been previously determined if any of the following conditions exist:

(1) there has been an adjudication of paternity by a court, quasi-judicial entity, or administrative agency of this or another state;

(2) there is a signed acknowledgment of paternity that creates a conclusive presumption of paternity under the law of the state in which the acknowledgement was completed;

(3) a support order has been entered by a court, quasi-judicial entity, or administrative agency of another state requiring the putative father to pay support for the child.

History: Eff. 10/1/98, Register 147; am 4/1/2005, Register 173

Authority: AS 25.25.315
AS 25.25.401
AS 25.25.610

AS 25.25.611
AS 25.25.701
AS 25.27.020

15 AAC 125.725. Priorities for withholding by an employer of an employee who is an obligor when there are multiple obligees

Repealed.

History: Eff. 10/1/98, Register 147; repealed 11/30/2002, Register 164

15 AAC 125.730. Modification if no party resides in this state

(a) If the agency receives a request for review or modification or the agency seeks to initiate a review or modification of a support order that was issued or registered in this state but the obligor, the custodial parent, and the child for whose benefit the support order is issued do not reside in this state, the agency will refer the request to the appropriate tribunal in the state where the non-requesting party resides.

(b) Except as provided in (c) of this section, the agency will determine a party's place of residence under (a) of this section as of the date the agency sends its notice of petition for modification under 15 AAC 125.316(c). If all of the parties leave this state after the agency sends the notice of petition for modification but before the review or modification is complete, the agency will complete the review and modification unless the agency finds that good cause exists to terminate the review process and refer the request to a tribunal in another state. In deciding whether good cause exists to refer a request for review or modification to another tribunal under this subsection, the agency will consider

(1) whether another tribunal has personal jurisdiction over the parties and subject matter jurisdiction to consider the request for review or modification;

(2) whether another tribunal would be a more convenient forum for the parties, including having better access to witnesses and other evidence relevant to the review or modification request;

(3) the effect of any delay caused by a referral to another tribunal, including the effect on the applicable effective date of the proposed modification; and

(4) the cause of the parties' departure from this state, including any evidence that the change of residence was intended to delay the review or modification process.

(c) When the agency is registering a support order issued by a tribunal of another state, the agency will determine a party's place of residence as of the date the notice of registration is served on the non-requesting party. If all of the parties leave this state after

the notice of registration is served on the non-requesting party, the agency will complete the review and modification unless the agency finds good cause exist to terminate the review process under (b) of this section.

History: Eff. 10/1/98, Register 147; am 4/1/2005, Register 173

Authority: AS 25.25.205
AS 25.25.206
AS 25.27.020

15 AAC 125.735. Notice of modified support order

Whenever the agency obtains a modified support order, the agency will send a certified copy of the modified order to the issuing tribunal that had continuing, exclusive jurisdiction over the earlier order and to each tribunal in which the agency knows that an earlier order has been registered.

History: Eff. 10/1/98, Register 147

Authority: AS 25.25.614
AS 25.27.020(a)

15 AAC 125.740. Use of standard forms

The agency will use the standard forms promulgated under 42 U.S.C. 652(a)(11) for income withholding, imposition of liens, and issuance of administrative subpoenas in interstate child support cases.

History: Eff. 10/1/98, Register 147

Authority: AS 25.27.020(a)

15 AAC 125.745. Arrears reconciliation

(a) When there are multiple child support orders from more than one state for the same obligor, custodian, and children, and the subsequent orders do not modify or supersede the prior orders, the agency will give full faith and credit to each of those orders as follows:

(1) the agency will first identify the oldest child support order and will charge arrears based on the amount required in that order until the effective date of the second child support order;

(2) the agency will then identify the second oldest child support order and will charge arrears at the higher of the two amounts required in the two child support orders from the effective date of the second child support order;

(3) the agency will follow the process set out in (1) and (2) of this subsection for each additional child support order that was issued for the obligor, custodian, and children until a controlling order determination is issued as to the obligor, custodian, and children;

(4) if a tribunal of competent jurisdiction makes a controlling order determination, the agency will charge arrears based on the amount required in the controlling order; the agency will make the charge required by this paragraph effective as of the date of the controlling order determination, unless a different effective date is stated in the controlling order determination.

(b) The agency will enforce a child support order issued after October 20, 1994, with respect to an obligor, custodian, and children for whom a support order was already issued by another state, only if the support order issued after October 20, 1994, was made consistently with 28 U.S.C. 1738B.

History: Eff. 10/1/98, Register 147

Authority: AS 25.25.207

AS 25.25.209

AS 25.27.020(a)

Article 10
Miscellaneous Provisions

Section

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15 AAC 125.800. Agency services

(a) The agency will provide complete child support services to a minor child, to the custodian of the minor child, to the noncustodial parent of the minor child, or to a child support agency of another state. Except as provided in (b) of the section the agency will provide the complete child support services

(1) if a written application for the agency's services has been executed and accepted;

(2) upon notification by the Department of Health and Social Services that the

(A) child is a recipients of public assistance under 42 U.S.C. 601 - 619 (Title IV-A of the Social Security Act);

(B) child is a recipient of Medicaid benefits, unless the parent requests medical support enforcement services only under (b) of this section; or

(C) state is incurring costs for a child in foster or institutional care;

(3) upon receipt of a petition or complaint under AS 25.25 (Uniform Interstate Family Support Act) or under the provisions of that act as enacted in another state, in accordance with 42 U.S.C. 651 - 669b (Title IV-D of the Social Security Act); or

(4) upon notification by a tribal organization that the child is receiving benefits through a federally approved program under 42 U.S.C. 612 (Temporary Assistance for Needy Families (TANF): Tribal Family Assistance).

(b) A custodian, non-custodial parent, or a child support agency of another state may request the following limited services:

(1) paternity establishment only;

(2) medical support enforcement only; a parent receiving Medicaid benefits may request medical support enforcement services only, but only if the parent is not also receiving public assistance under 42 U.S.C. 601 - 619).

(c) If a request is made under (b) of this section, the agency will provide only the limited services requested. The agency will not provide complete child support services unless, under (a) of this section, the agency receives an application for services, a notification by the Department of Health and Social Services, or a petition or complaint from another state.

(d) If complete child support services are being provided by the agency because of the payment of public assistance or Medicaid benefits under (a)(2)(A) or (a)(2)(B) of this section or because the child is in state-sponsored placement under (a)(2)(C) of this section and the payment of the benefits or the placement subsequently terminates, the agency will continue to provide complete child support services with respect to the child unless the custodial parent withdraws from services by filing a written withdrawal from services. An additional application is not necessary to continue complete child support services in the circumstances described in this subsection.

(e) Notwithstanding (a) or (b) of this section, when the agency is not enforcing the support order under (a) or (b) of this section, the agency will provide payment services only upon a request by an obligor or a custodial parent for immediate income withholding under 15 AAC 125.500(2) or 15 AAC 125.505(b). An application for services under (a) of this section is not necessary to commence payment services only in the circumstances described in this subsection. Payment services include the issuance of orders to withhold and deliver, the receipt and disbursement of payments, and the maintenance of records of those payments.

(f) The agency will reject an application for services made under (a)(1) of this section if

(1) the custodian of the child for whom support is sought is living with the parent from whom support is sought when the application for services is submitted to the agency;

(2) the child has already turned 18 when the agency receives the application and paternity has not yet been established for the child;

(3) the application is submitted by an unemancipated minor who is not living with a parent or with a legal guardian or caretaker relative;

(4) a support order is not in place and the youngest child for whom support is sought has already turned 19 when the agency receives the application; or

(5) a support order is in place, and the youngest child subject to that order is more than 30 years old when the agency receives the application unless, within five years before the agency receives the application, the

(A) arrears have been reduced to judgment;

(B) applicant has received services from the agency or a child support agency of another state; or

(C) applicant has taken legal action to enforce the support order without the assistance of the agency or a child support agency of another state.

History: Eff. 10/1/98, Register 147; am 6/15/2001, Register 158; am 11/30/2002, Register 164; am 4/1/2005, Register 173

Authority: AS 25.27.020
AS 25.27.100

15 AAC 125.805. Extension of time and leave to file late

If a person is required by this chapter to respond or take some action within a specified period of time, the agency will, in its discretion, grant an extension of time or leave to file late. The agency will grant the extension or leave only upon request and proof of good cause for the failure to comply within the specified period of time.

History: Eff. 10/1/98, Register 147

Authority: AS 25.27.020

15 AAC 125.810. Notification of orders and administrative proceedings

(a) In every administrative proceeding for the establishment or modification of support or the establishment or disestablishment of paternity, the agency will provide notice of each proceeding to each party to the proceeding and to individuals who are applying for or receiving services from the agency that relate to the application for or

receipt of service by the agency. The agency will send the notice no less than seven days prior to the proceeding or review in question, unless a different amount of time is provided in the regulation or statute governing the proceeding. The agency will send the notice by first class mail or by electronic means to the last known address of the party or individual that is on file with the agency.

(b) In every action taken by the agency establishing or modifying a support obligation or concluding that there should be no change in the amount of a support obligation, the agency will send a copy of the order issued by the agency that establishes or modifies a support obligation or makes the determination that there should be no change in the amount of the child support award. The agency will send the copies to each party to the proceeding within 14 days after issuance of the order or determination, unless a shorter time is provided by the regulation or statute governing the issuance of the order or determination.

(c) When the agency has received an order or judgment from the court under AS 25.24.920, the agency will send a copy of the order or judgment to each party to the proceeding within 14 days after the court has issued the order or judgment. However, the agency will, in its discretion, omit this requirement as to a party if it appears from the face of the document that the order or judgment has already been served on the party.

(d) In this section, "party" means:

(1) the custodial parent;

(2) the non-custodial parent;

(3) the original issuing tribunal, if other than the agency; and

(4) the initiating tribunal, if the agency is enforcing a support obligation at the request of another state.

History: Eff. 10/1/98, Register 147

Authority: AS 25.27.020

15 AAC 125.815. Role of agency in an appeal conducted as a formal hearing

In a formal hearing conducted under 15 AAC 05.010 and 15 AAC 05.030 - 15 AAC 05.040, the agency represents the public interest and is not a representative of an individual. When the agency participates in a formal hearing, the agency acts

(1) to ensure that applicable law is properly applied;

(2) in the best interests of the children;

(3) to protect the state's financial interest in the case; and

(4) to further the resolution of the controversy.

History: Eff. 10/1/98, Register 147

Authority: AS 25.27.020(a)

15 AAC 125.820. State case registry

As the central registry for all child support orders under AS 25.27.020(a)(13), the agency will receive, maintain, and provide all information that is required for child support orders by state and federal law.

History: Eff. 10/1/98, Register 147

Authority: AS 25.27.020(a)

15 AAC 125.825. State disbursement unit

(a) Because, under AS 25.27.020(a)(6) and AS 25.27.103, the agency has the duty to disburse child support payments that it collects, the agency is the state disbursement unit for the collection and disbursement of payments under support orders, as required by state and federal law.

(b) Upon written request of a party, the agency will promptly furnish to the party timely information on the current status of support payments under an order requiring payments to be made by or to the party. However, the provisions of this subsection do not apply when the agency is not enforcing the support order under circumstances in which immediate income withholding has been ordered and the agency is providing payment services only as required by federal law.

(c) The agency will distribute all amounts payable within two business days after receipt from the employer or other source of periodic income, if sufficient information identifying the payee is provided. However, the agency will, in its discretion, delay the distribution of collections toward arrears until the resolution of a timely appeal with respect to those arrears.

History: Eff. 10/1/98, Register 147

Authority: AS 25.27.020

AS 25.27.103

AS 25.27.105

15 AAC 125.830. Determination of noncooperation

(a) If the agency determines that an applicant for or recipient of assistance under AS 47.27 (Alaska Temporary Assistance Program or ATAP) has failed to cooperate in good faith with the agency's efforts to establish paternity or to establish, modify, or enforce a child support order for a child for whom the assistance is received, the agency will

(1) make a determination of noncooperation based on the applicant's or recipient's failure to cooperate in good faith; and

(2) send a notice of noncooperation to the applicant or recipient; the notice must

(A) identify the reason for the agency's determination of noncooperation; and

(B) describe the action that the applicant or recipient is required to take in order for the applicant or recipient to be found to have cooperated with the agency.

(b) For purposes of (a) of this section, the agency will make a determination of noncooperation as to an applicant for or recipient of assistance under ATAP if, without sufficient justification, the applicant or recipient

(1) fails to complete and return any form that has been requested by the agency, including an information locate sheet, an affidavit of support received, a paternity affidavit, a photograph identification letter, the general testimony for a packet prepared under AS 25.25 (Uniform Interstate Family Support Act), a verified statement for registration of a foreign support order, or a third party witness affidavit;

(2) fails to provide information requested by the agency, including, without limitation, copies of a relevant court or administrative order, a family record such as a birth certificate, marriage certificate, or death certificate, the location of the child or children covered by the support order, medical and health insurance information, or any other information the agency deems necessary to proceed with an effort to establish paternity or to establish, modify, or enforce a child support order; or

(3) fails to cooperate with genetic testing requirements or to reschedule a genetic testing appointment, if necessary.

(c) If the applicant or recipient does not perform the act stated in the agency's notice of noncooperation within 15 days after the agency mails the notice, the agency will inform the Department of Health and Social Services of its determination of noncooperation.

(d) The agency will find that an applicant for or recipient of assistance under AS 47.27 has cooperated under this section if the applicant or recipient

(1) provides the required information; or

(2) obtains a determination from the Department of Health and Social Services that there is good cause for the applicant or recipient not to comply.

History: Eff. 10/1/98, Register 147

Authority: AS 25.27.020(a)
AS 25.27.040(b)

15 AAC 125.835. Use of social security numbers

(a) The provisions of this section apply when the agency issues

(1) a notice and finding of financial responsibility under AS 25.27.160;

(2) a notice of paternity and financial responsibility under AS 25.27.165; or

(3) an order disestablishing paternity under AS 25.27.166.

(b) When the agency issues a notice, finding, or order described in (a) of this section, the agency will include in the records relating to the matter the social security numbers, if ascertainable, of each of the following persons:

(1) the mother and father or putative father of the child or children for whom support is sought;

(2) the child or children for whom support is sought; and

(3) the custodian of the child or children for whom support is sought, if the custodian is someone other than the mother or father of the child or children.

History: Eff. 10/1/98, Register 147

Authority: AS 25.27.020
AS 25.27.160
AS 25.27.165
AS 25.27.166

15 AAC 125.840. Interest on child support arrears

(a) The agency will charge the obligor interest on unpaid child support commencing on the last day of the first month following the date on which the child support payment became due. The agency will continue to charge interest on unpaid child support on the last day of each month thereafter until the child support is paid. The interest calculation

for a given month is based on the amount of the child support arrears owed on the last day of the month immediately preceding the month for which interest is being calculated, less any payments received during the month for which interest is being calculated.

(b) If the support order was issued by a tribunal of another state, the agency will charge the obligor interest on unpaid child support under (a) of this section only if the state in which the support was issued has the statutory authority to charge interest and is currently charging interest on the arrears.

(c) The rate of interest charged under (a) of this section is

(1) the rate specified in AS 25.27.025, if the support order was issued by an Alaska court or by the agency; or

(2) the interest rate specified in the law of the state that issued the support order, if the support order was issued by a tribunal in another state.

(d) For the purpose of determining the amount of interest to be charged under (a) of this section, the date of receipt of a payment by the agency is the date the payment is actually received in the office of the agency, whether the payment is made by mail, in person, or otherwise. The agency will enter the date of receipt of the payment in the agency's computerized accounting records.

(e) The agency will disburse the proceeds received from the interest charged under this section

(1) to the obligee;

(2) to the state when applicable under AS 25.27.120; or

(3) to another state if that state has paid public assistance on behalf of the obligee.

(f) If the right to receive child support

(1) has been assigned to the state, the agency will, in its discretion, enter into a written agreement with the obligor to waive interest on arrears;

(2) has been assigned to a governmental entity of another state or has not been assigned, the agency will, in its discretion, enter into a written agreement with the obligor to waive interest only upon the written approval of the obligee or the child support enforcement agency of the state to which the support has been assigned.

History: Eff. 10/1/98, Register 147

Authority: AS 25.25.604
AS 25.27.020

15 AAC 125.845. Cultural adoptions

(a) If a matter involves an Indian child or children covered by a cultural adoption resolution, the agency will recognize the cultural adoption resolution issued by the governing body of the Indian child's tribe, as that term is defined in 25 U.S.C. 1903(5). The effective date of the cultural adoption is the date on which the Bureau of Vital Statistics issues a new birth certificate under 7 AAC 05.700(b) based on the cultural adoption.

(b) Upon receipt of a new birth certificate issued by the Bureau of Vital Statistics based on a cultural adoption, the agency will suspend the obligor's ongoing monthly support obligation for the child or children covered by the cultural adoption and will eliminate from its accounting any arrears that accrued against the obligor under the suspended ongoing monthly support obligation on or after the effective date of the cultural adoption. The agency will continue to enforce collection of the child support arrears that accrued against the obligor under the suspended ongoing monthly support order before the effective date of the cultural adoption.

(c) If, as a result of the cultural adoption, the agency has collected support in excess of the amount that accrued before the effective date of the cultural adoption, the agency will first determine whether the obligor owes support for a child or children other than the child or children covered by the cultural adoption and will then determine whether a refund is appropriate as follows:

(1) if the agency determines that the obligor owes support for a child or children other than the child or children covered by the cultural adoption and the excess support collected by the agency was retained by the state as reimbursement for public assistance paid on behalf of the child or children covered by the cultural adoption, the agency will apply any support that has been collected by the agency that is in excess of the amount owed for a child or children covered by the cultural adoption to any amounts owed to the state as reimbursement for public assistance paid on behalf of the other child or children before repaying any money received as payment of child support to the obligor;

(2) if the agency determines that the obligor owes support for a child or children other than the child or children covered by the cultural adoption and the support for the other child or children is owed to the same person to whom the excess support was paid, the agency will apply any support that has been collected by the agency in excess of the amount owed for a child or children covered by the cultural adoption to any amounts owed on behalf of the other child or children before repaying any money received as payment of child support to the obligor;

(3) if the agency determines that the obligor owes support for a child or children other than the child or children covered by the cultural adoption and the support has not yet

been disbursed by the agency, the agency will apply the excess support that has been collected but not yet been disbursed by the agency to any amounts owed on behalf of the other child or children before repaying any money received as payment of child support to the obligor.

(d) Under a support order for a child or children that are covered by a cultural adoption, upon the obligor's payment of all arrears owed for periods before the effective date of the cultural adoption, the agency will close its case with respect to the child or children covered by the cultural adoption. However, if the support order in question covers another child or other children who are not the subject of the cultural adoption, the agency will continue to collect child support payments for the remaining children covered by the support order.

(e) If the agency is in the process of establishing a support order for a child or children who are the subject of a cultural adoption and the support order is not yet final when the agency receives the birth certificate issued by the Bureau of Vital Statistics under 7 AAC 05.700(b), the agency will issue an administrative review decision that concludes the process of establishing the support order and will close its case with respect to the child or children covered by the cultural adoption.

History: Eff. 10/1/98, Register 147

Authority: AS 25.27.020

15 AAC 125.850. Accommodations during administrative process for persons with disabilities

(a) A qualified individual with a disability who is a party to an administrative proceeding for the establishment, modification, or enforcement of a support obligation or the establishment or disestablishment of paternity may request an accommodation by the agency to assure equal access to and participation in that proceeding. A request for an accommodation under this section must be made in writing, and if the request relates to a hearing to be held by the agency, the request must be received by the agency at least 10 days before the scheduled hearing.

(b) If a disability prevents the individual from writing, the agency, at the request of the individual, will seek the assistance of an advocate or assistance outside the agency to assist the individual in writing the request under (a) of this section.

(c) Upon receipt of a request under (a) of this section, the agency will provide a reasonable accommodation, including the use of auxiliary aids and services to assure the individual equal access to and participation in the administrative proceeding to the extent the agency determines is required by applicable law.

(d) In this section, "auxiliary aids and services," "disability," and "qualified individual" have the meaning given in 28 C.F.R. 35.104. For purposes of this section, the definitions of "auxiliary aids and services," "disability," and "qualified individual" given in 28 C.F.R. 35.104, as revised as of July 1, 2000, are adopted by reference.

History: Eff. 6/15/2001, Register 158

Authority: AS 25.27.020

15 AAC 125.860. Nondisclosure of identifying information based on evidence of domestic violence

(a) Upon receipt by the agency of an application for services or a request for disclosure of information regarding a child support case, or if during the agency's enforcement of a support obligation the agency has reason to believe that evidence of domestic violence exists, the agency will send a notice to a parent of the right to request that identifying information not be disclosed to the other parent based on evidence of domestic violence.

(b) A parent may request that identifying information not be disclosed to the other parent based on evidence of domestic violence. The request must be in writing and must be accompanied by evidence of domestic violence. Evidence of domestic violence includes evidence that the other parent was arrested and charged with domestic violence, or convicted of domestic violence, statements from persons who have witnessed acts or threats of domestic violence by the other parent, or a parent's sworn testimony or affidavit setting out facts establishing acts or threats of domestic violence by the other parent, even if the other parent was not arrested, charged, or convicted as a result of those acts or threats.

(c) The agency will issue an administrative review decision as soon as practicable after receiving a request under (b) of this section. The agency will grant the request if the agency determines that the health, safety, or liberty of a parent or a child is put unreasonably at risk by disclosure of identifying information about the parent or child. If the agency grants the request under (b) of this section, the agency will order that identifying information about the parent or child not be disclosed to any other person or in any pleading or other document filed in a proceeding under AS 25.25 or AS 25.27.

(d) Except as provided in (e) of this section, the administrative review decision granting or denying the request for nondisclosure will be served only on the requesting party. Upon receipt of the administrative review decision, the requesting party may request a formal hearing to contest the administrative review decision. The provisions of 15 AAC 05.010 and 15 AAC 05.025 - 15 AAC 05.040 regarding formal hearings apply to appeals under this subsection.

(e) If a party requests disclosure of identifying information after the issuance of an nondisclosure order under (c) of this section, the agency will promptly send a copy of the nondisclosure order by first class mail or by electronic means to the party requesting disclosure. Upon receipt of the nondisclosure order, a party may request a formal hearing to contest the nondisclosure order. The request for a formal hearing must be made in writing within 30 days after the nondisclosure order is sent to the contesting party. The provisions of 15 AAC 05.010 and 15 AAC 05.025 - 15 AAC 05.040 regarding formal hearings apply to appeals under this section.

History: Eff. 6/15/2001, Register 158

Authority: AS 25.27.020
AS 25.27.100

Editor's note: As of register 173 (April 2005), the regulations attorney made technical revisions under AS 44.62.125(b)(6), to 15 AAC 125.860(e).

15 AAC 125.870. Suspension or termination of ongoing support

(a) The agency will suspend the ongoing support accruing under an administrative support order issued under AS 25.27.160 for any periods of time during which the

(1) custodian of the child for whom support is sought is living with the parent identified as the obligor under the support order; or

(2) parent identified as the obligor has primary physical custody of the child, unless a valid custody order awards primary physical custody of the children to the other parent.

(b) If the parent identified as the obligor under the support order has primary physical custody of the children and has applied for the agency's services or is receiving public assistance on behalf of the children, the agency will initiate a modification review under 15 AAC 125.316(b).

(c) Except as provided in (d) of this section, the agency will reinstate an order that has been suspended under (a) of this section if the conditions set out in (a)(1) or (a)(2) of this section are no longer met. If an order is reinstated under this subsection, the agency will not charge ongoing support for the period during which the support obligation was suspended under this section.

(d) The agency will terminate an administrative support order issued under AS 25.27.160 if the agency determines that the parties married each other after the order was issued. If an order is terminated under this subsection, the agency will stop charging the ongoing support obligation as of the date the parties were married. However, any arrears that accrued under the order before the date the parties married remains valid and enforceable. If the parties subsequently separate and the agency's services are requested under 15 AAC 125.800(a), the agency will

(1) issue a new administrative support order under AS 25.27.160 if no other support order has been issued after the parties married each other; or

(2) enforce a support order issued by another tribunal after the parties married each other.

(e) When the agency suspends or reinstates an administrative support order under (a) or (c) of this section or terminates an administrative support order under (d) of this section, the agency will send a notice of the suspension, reinstatement, or termination to each parent. A parent may contest the notice by requesting an administrative review within 30 days after the date on which the notice was sent to the parent. The request must be in writing, state the specific reasons for the contest, and be accompanied by the documentation upon which the person requesting the review intends to rely. Upon receipt of a request for administrative review, the agency will mail a notice of the request to the nonrequesting parent. The nonrequesting parent may submit a response to the request for administrative review. The response must be postmarked or received by the agency within 30 days after the date the notice of the request was mailed to the nonrequesting parent.

(f) The agency will issue an administrative review decision on the suspension, reinstatement, or termination of the administrative support order as soon as practicable after the time for response by the nonrequesting parent. As necessary to determine whether suspension, reinstatement, or termination is appropriate, the agency may request additional information from the parents or from any other source. An administrative appeal is not available from the administrative review decision issued under this subsection, but the decision is final for the purpose of appeal to the superior court.

History: Eff. 6/15/2001, Register 158; am 4/1/2005, Register 173

Authority: AS 25.27.020

15 AAC 125.873. Termination of support order based on emancipation

(a) Unless the order specifically provides otherwise, a support order terminates when the child is emancipated, dies, or is legally adopted or when the obligor's parental rights and obligations are terminated under a proceeding under AS 47.10 or substantially similar laws in a state with jurisdiction over those proceedings.

(b) Except as provided in (c) of this section, a child will be considered emancipated if the child

(1) turns 18 years of age;

(2) is married according to law, unless the child is under the marriageable age of consent as defined in AS 25.05.171(a);

(3) is legally emancipated by a court or other tribunal of competent jurisdiction; or

(4) enters the United States armed forces and is no longer being supported as a dependent by a parent, guardian, or designee of the parent or guardian.

(c) If the support order was issued by a tribunal of another state, the agency will apply the law of the issuing state to determine when the support obligation terminates under the support order.

(d) If a child enters the United States armed forces, the agency will presume that the child is no longer being supported as a dependent by a parent, guardian, or designee of the parent or guardian. A parent may rebut this presumption by providing clear and convincing evidence that the child is still being supported as a dependent by a parent, guardian, or designee of the parent or guardian.

History: Eff. 4/1/2005, Register 173

Authority: AS 25.27.020

15 AAC 125.875. Case closure

(a) The agency will close a child support case when the requirements of 45 C.F.R. 303.11 are met. The requirements of 45 C.F.R. 303.11, as revised as of October 1, 2004, are adopted by reference.

(b) When the agency closes a case under (a) of this section, the agency will terminate all ongoing administrative actions, including all administrative actions to establish or enforce a support obligation for the children included in the case.

(c) Closure of a case under (a) of this section does not terminate or suspend the accrual of child support under an existing support order. When the agency closes a case under (a) of this section, any valid child support order for the children included in the case remains in effect unless the agency or another tribunal of competent jurisdiction specifically orders otherwise.

History: Eff. 4/1/2005, Register 173

Authority: AS 25.27.020

Article 11
General Provisions

Section
900. Definitions.